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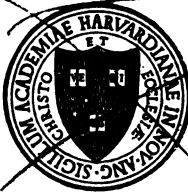
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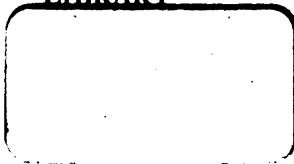
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APPENDICES

CONTAINING

THE UNITED STATES NAVAL WAR CODE, 1900.

INSTRUCTIONS FOR THE GOVERNMENT OF ARMIES OF THE  
UNITED STATES IN THE FIELD, 1863.

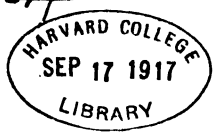
HAGUE CONVENTION WITH RESPECT TO THE LAWS AND CUSTOMS  
OF WAR ON LAND, 1899.

HAGUE CONVENTION FOR THE ADAPTATION TO MARITIME  
WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION  
OF AUGUST 22, 1864, 1899.

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## PREFACE.

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The discussion of the United States Naval War Code, 1900, during the summer of 1903, was carried on with the assistance of Mr. George Grafton Wilson, professor in Brown University, by the staff of the college and a large body of active officers of long experience. The discussion should be considered with reference to the explanation set forth on pages 11 and 12.

The discussion resulted in a recommendation that the Code be withdrawn, and accordingly this has been done by the Navy Department's General Order No. 150, February 4, 1904.

C. S. SPERRY.

*Captain, U. S. N., President.*

U. S. NAVAL WAR COLLEGE,

*Newport, R. I.,*

*February 9, 1904.*

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## INTRODUCTORY.

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### THE PREPARATION OF THE CODE.

The publication of a code to determine the course of action in maritime war is in itself an act significant of the progress that has been made in recent years in the conduct of hostilities. The issue of such a code by the United States in 1900 is in accord with the precedent set in the publication in 1863 of rules prepared by Dr. Lieber for the government of armies in the field. This codification of rules for the regulation of land warfare by Dr. Lieber was followed by such regulations as those of the Geneva Convention of October 30, 1868, the Declaration of Brussels of 1874, the Oxford Resolutions of 1880, and other later rules pertaining to the conduct of war upon land.

These rules for warfare upon the sea were prepared by Capt. Charles H. Stockton, U. S. N., in accordance with an order of the Secretary of the Navy, made in 1899, while Captain Stockton was president of the Naval War College. He was requested to draw up a set of rules which should serve for the Navy the purpose which the rules drawn up by Dr. Lieber served in the Army. Captain Stockton consulted with various officers of the Navy and also with several civilians who were interested in maritime international law.

The preliminary draft of the code prepared in the main by Captain Stockton was sent out with the following memorandum:

The regulations respecting the laws and usages of war at sea, a preliminary draft of which is herewith forwarded, are proposed, primarily, to be put in force for the Navy of the United States. For that reason, and on account of our existing laws in regard to privateers and the capture of enemy merchant vessels, the articles relating to privateers and letters of marque, and to the capture and destruction of private property at sea, are included in the code.

If the code should be presented to other countries as an international *projet*, it is presumed that these articles would be omitted or modified, in view of our adherence to the Declaration of Paris during the late war and of the stand, as to the capture of private property at sea, taken by the President of the United States in a recent message and in his instructions to our representatives at The Hague Conference.

The regulations for the laws of war upon land, adopted at The Hague Conference, cover a number of subjects that are applicable to the naval service afloat and ashore, such as those bearing upon

matters of prisoners, spies, military occupation, etc., and hence these matters are not included in the Naval Code, which extends, by Article 55, the authority of the laws of war to the naval service, when applicable and when not in conflict with the proposed Naval Code. These regulations for land warfare, as adopted at The Hague, accompany this memorandum and have been adhered to by the United States, but are not yet in force for the Army of the United States, though it is presumed that, after submission to and confirmation by the Senate, they will be duly promulgated and authorized.

I am informed unofficially by the Judge-Advocate General of the Army that the present, or "Lieber Code" (General Order No. 100), now in force, will in all probability be incorporated or amalgamated, where possible, with The Hague Regulations.<sup>1</sup>

The Geneva-Hague additional articles for the amelioration of warfare at sea, on the lines of the Geneva Convention, have been incorporated in the Naval Code, with the exception of Article 3, which is omitted, and of Article 6, which is modified. The presence of these two articles prevented the adoption of the additional articles, as a whole, by the representatives of the United States. It is believed that the possibilities of the South African war have justified Captain Mahan's views as to Article 3.<sup>2</sup> If it had been a maritime war we might have seen sympathetic neutral hospital ships of different countries arrayed on opposite sides, and even hospital ships of the same neutral country so opposed, in accordance with the sympathies of the contributors. Probably from the United States would have come two or more antagonistic hospital ships, fitted out by sympathizers having opposing opinions as to the merits of the war. It can readily be imagined what confusion and complications might follow—all the articles would have been discredited.

It is believed also, by the proposed modification of Article 6, that the danger of a repetition of the *Deerhound* affair, in the *Kearsarge-Alabama* fight, would be avoided in the future. The phraseology of these articles given in the two official translations (English and American) is retained wherever the translations do not conflict.

In addition to the manifest advantages of a formulation and crystallization of the laws and usages of naval war (a work that has never before been attempted, it is believed, by any other nation), it is also hoped that this code will tend toward the amelioration of the hardships of naval warfare in general, and more particularly in the following respects:

1. By the adoption of all that is of practical value to be found in the additional articles proposed at The Hague to extend the articles of the Geneva Convention to maritime warfare.
2. By restricting to narrow limits the bombardment of unfortified and undefended towns.
3. By forbidding bombardment as a means of levying a ransom upon undefended towns.
4. By forbidding the use of false colors.
5. By forbidding reprisals in excess of the offense calling for them.
6. By exempting coast fishing vessels from capture, where innocently employed.
7. By incorporating the liberal allowances for vessels of the enemy at the outbreak of war, and for blockaded vessels, given in the General Order No. 492, of 1898, of the Navy Department.
8. By providing definitely that free ships make free goods.
9. By giving all the exemption possible to mail steamers in time of war.

<sup>1</sup> Laws and Customs of War on Land proclaimed by President, April 11, 1902.

<sup>2</sup> Holls, "Peace Conference at The Hague," p. 498.

10. By exempting neutral convoys from the right of search.
11. By promulgating the general classification of contraband of war in such a manner as to make an international adoption of the general principles possible.
12. By authorizing the use of the regulations for land warfare, whenever applicable, to the naval service of the United States. This has not been officially done heretofore.

I am, very respectfully,

C. H. STOCKTON,  
*Captain, U. S. Navy,*  
*President Naval War College.*

These points and many others were considered and several tentative drafts of the code were made. These were subjected to the criticism of various officers of the Navy and to several other persons outside the Navy. Captain Stockton's untiring labor in the preparation of this valuable compilation deserves high recognition.

The code was finally issued in accord with General Orders No. 551, Navy Department, Washington, June 27, 1900, which states:

"The following code of naval warfare, prepared for the guidance and use of the naval service by Capt. Charles H. Stockton, United States Navy, under direction of the Secretary of the Navy, having been approved by the President of the United States, is published for the use of the Navy and for the information of all concerned.

"JOHN D. LONG, Secretary."

#### OPINIONS UPON THE CODE.

The issue of the code very quickly called forth expressions of opinion from foreign sources, though not especially widely mentioned in the United States. It has been translated several times and has been made the subject of both practical and academic discussion. The following are examples of expression of opinion from English sources:

(From London Times, Friday, April 5, 1901.)

#### A NAVAL WAR CODE.

*From a Naval Correspondent.*

There has been recently issued to the officers of the United States Navy a compact handbook of twenty-seven pages and fifty-five articles comprising laws and usages of war at sea. As the work is quite unknown in England, and as it includes a great deal of matter that must affect the policy of other nations, it is proposed to summarize briefly in this article some of its most salient features. In the first place, we are concerned as to the official sanction to laws given in the general order prefacing the handbook, informing us that it is "Prepared for the guidance and use of the naval service, by Capt. Charles H. Stockton, under the direction of the Secretary of the Navy, having been approved by the President of the United States."

There has of late been some discussion as to the measures that may be adopted in dealing with an opponent under the assumption, recognized in this handbook, that the object of war is to procure complete submission at the earliest possible period, with the least expenditure of life and property. The proceedings of General Sheridan and others in the civil war have been frequently referred

to; and it may be of interest if we quote from this handbook a few passages dealing with this question. Articles 3, 4, 8, and 12 set forth that:

Military necessity permits measures that are indispensable for securing the ends of the war and that are in accordance with modern laws and usages of war.

It does not permit wanton devastation, use of poison, or the doing of any hostile act that would make the return of peace unnecessarily difficult.

Noncombatants are to be spared in person and property during hostilities, as much as the necessities of war and the conduct of such noncombatants will permit. \* \* \*

The bombardment by a naval force of unfortified and undefended towns, villages, or buildings is forbidden, except when such bombardment is incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, or unless reasonable requisitions for provisions and supplies, essential at the time to such naval vessel, or vessels, are forcibly withheld, in which case due notice of bombardment shall be given.

The bombardment of unfortified or undefended towns and places for the nonpayment of ransom is forbidden.

In the event of an enemy failing to observe the laws and usages of war, if the offender is beyond reach, resort may be had to reprisals if such action should be considered a necessity; but due regard must always be had to the duties of humanity. Reprisals should not exceed in severity the offense committed, and must not be resorted to when the injury complained of has been repaired.

If the offender is within the power of the United States he can be punished, after due trial, by a properly constituted military or naval tribunal. Such offenders are liable to the punishments specified by the criminal law.

The United States of America acknowledge and protect, in hostile countries occupied by their forces, religion and morality; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

In the columns of the Times during the Spanish-American War, there occurred an interesting controversy concerning the position of submarine cables in war. Professor Holland's views that a cable going from a belligerent's territory to a neutral was only liable under international usage to be cut within the belligerent's territorial waters, were regarded at the time as rather academic. They are reenforced by Article 5 of the American War Code, which lays down that—

The following rules are to be followed with regard to submarine telegraphic cables in time of war, irrespective of their ownership:

(a) Submarine telegraphic cables between points in the territory of an enemy, or between the territory of the United States and that of an enemy, are subject to such treatment as the necessities of war may require.

(b) Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy.

(c) Submarine telegraphic cables between two neutral territories shall be inviolable and free from interruption.

There is a point of controversy as to what is contraband of war. The Naval War Code divides contraband of war into what is absolutely contraband and what is conditionally contraband. The first class includes the general kinds of war equipments all set forth at length; but as these are generally recognized as contraband there is

no use in repeating the list. The "conditionally contraband" includes:

(a) Coal, when destined for a naval station, a port of call, or a ship or ships of the enemy.

(b) Materials for the construction of railways or telegraph.

(c) Money, when such material or money are destined for the enemy's forces.

(d) Provisions, when actually destined for the enemy's military or naval forces.

It is interesting to note that the inoffensive mule, which has proved so useful to us in South Africa, figures last of the long list of "absolutely contraband," and that the list is binding on American naval officers "until otherwise announced." In another paragraph we are informed that "in case of war, the articles that are conditionally and unconditionally contraband, when not specifically mentioned in treaties previously made and in force, will be duly announced in a public manner."

A number of minor points are dealt with, such as use of false colors being forbidden and the rule that national colors must be displayed before firing a gun. Article 14 lays down that "all merchant vessels of the enemy, except coast-fishing vessels innocently employed, are subject to capture, unless exempt by previous stipulations." The merchant vessels may be destroyed if thought fit, the passengers being landed at a convenient port at the first opportunity. It is curious to note that, though constant reference is made to neutral vessels, the code gives no index as to how the United States is prepared to recognize transfers of shipping to neutral flags.

Section V deals with the exercise of the right of search, which is confined to properly commissioned and authorized vessels of war, convoys of neutrals being exempt on the commander of the convoys being able to give proper assurances. The right of search is universally recognized as necessary to a belligerent to enable it to ascertain the nationality of a vessel for the purpose of preventing breaches of blockade, and in other circumstances to seize vessels employed in any capacity for the enemy except that of carrying goods which are not contraband of war.

Further actions justifying seizure are:

1. Attempt to avoid search by escape; but this must be clearly evident.

2. Resisting search with violence.

3. Presenting fraudulent papers.

4. Vessels not being supplied with the necessary papers to establish the object of search.

5. If papers are destroyed, defaced, or concealed.

How far our own naval officers or the foreign office could justify the seizure of the German ships for which we had to pay compensation, under any of the above heads, is a matter of pure conjecture. It may, however, be confidently predicted that their task is not rendered easier by leaving so much to common sense which it is unwise to assume too confidently will be found in the right place at the right time. In the absence of any teaching on international law, except for a few lectures to some fortunate captains and commanders at the Royal Naval College, the least that might be done is to afford them such aid as the American Navy Department does to its own officers. This little code of laws deserves to be noted as another product of the United States Naval War College, to which we owe Captain Mahan's work on sea power; while in comparison Great Britain is content to spend £200 per annum on a naval strategy course, which includes a lecture on naval history, fee of £5 a lecture. Small wonder that in such circumstances the field produces so little,

and the official representative of the Admiralty informs the House that his sympathies are with the hostile critics of the naval educational system on this question of the higher training of the Navy.

A few days later there appeared from the distinguished British authority on international law, Professor Holland, the following letter:

(From London Times, Wednesday, April 10, 1901.)

THE UNITED STATES NAVAL WAR CODE.

To the EDITOR OF THE TIMES:

SIR: The "Naval War Code" of the United States, upon which an interesting article appeared in the Times of Friday last, is so well deserving of attention in this country that I may perhaps be allowed to supplement the remarks of your correspondent from the results of a somewhat minute examination of the code made shortly after its publication.

One notes, in the first place, that the Government of the United States does not shirk responsibility. It puts the code into the hands of its officers "for the government of all persons attached to the naval service," and is doubtless prepared to stand by the rules contained in it, as being in accordance with international law. These rules deal boldly with even so disagreeable a topic as "Reprisals" (Art. 8), upon which the Brussels, and after it The Hague, Conference preferred to keep silence; and they take a definite line on many questions upon which there are wide differences of opinion. On most debatable points the rules are in accordance with the views of this country, e. g., as to the right of search (Art. 22), as to the twofold list of contraband (Art. 34-36), as the moment at which the liability of a blockade runner commences (Art. 44), and as to the capture of private property (Art. 14), although the prohibition of such capture has long been favored by the Executive of the United States, and was advocated by the American delegates at The Hague Conference. So also Articles 34-36, by apparently taking for granted the correctness of the rulings of the Supreme Court in the civil-war cases of the *Springbok* and the *Peterhoff* with reference to what may be described as "continuous carriage," are in harmony with the views which Lord Salisbury recently had occasion to express as to the trade of the *Bundesrath* and other German vessels with Lourenço Marques. It must be observed, on the other hand, that Article 30 flatly contradicts the British rule as to convoy; while Article 3 sets out The Hague Declaration as to projectiles dropped from balloons, to which this country is not a party. Article 7 departs from received views by prohibiting altogether the use of false colors, and Article 14 (doubtless in pursuance of the recent decision of the Supreme Court in the *Paquete Habana*) by affirming the absolute immunity of coast fishing vessels, as such, from capture.

On novel questions the code is equally ready with a solution. It speaks with no uncertain voice on the treatment of mail steamers and mail bags (Art. 20). On cable-cutting it adopts in Article 5, as your correspondent points out, the views which I ventured to maintain in your columns when the question was raised during the war of 1898. I may also, by the way, claim the support of the code for the view taken by me, in a correspondence also carried on in your columns during the naval maneuvers of 1888, of the bombardment of open coast towns. Article 4 sets out substantially the rules upon this subject, for which I secured the imprimatur of the Institut de Droit International in 1896.

Secondly, the code is so well brought up to date as to incorporate (Articles 21 to 29) the substance of The Hague Convention, ratified



only in September last, for applying to maritime warfare the principles of the Convention of Geneva. Article 10 of The Hague Convention has been reproduced in the code in forgetfulness, perhaps, of the fact that that article has not been ratified.

Thirdly, the code contains very properly some general provisions applicable equally to warfare upon land (Arts. 1, 3, 8, 12, and 54).

Fourthly, it is clearly expressed, and it is brief, consisting of only 54 articles, occupying 22 pages.

Fifthly, it deals with two very distinct topics, viz, the mode of conducting hostilities against the forces of the enemy, and the principles applicable to the making prize of merchant vessels, which as often as not may be the property of neutrals. These topics are by no means kept apart as they might be, articles on prize appearing unexpectedly in the section avowedly devoted to hostilities.

It is worth considering whether something resembling the United States Code would not be found useful in the British Navy. Our code might be better arranged than its predecessor, and would differ from it on certain questions, but should resemble it in clearness of expression, in brevity, and, above all things, in frank acceptance of responsibility. What naval men most want is definite guidance, in categorical language, upon those points of maritime international law upon which the government has made up its own mind.

I am, sir, your obedient servant,

T. E. HOLLAND.

OXFORD, April 8.

#### NATURE OF THE DISCUSSIONS FOR 1903.

While it is true that the Naval War Code of the United States was issued only three years ago, yet the nature of the subject and the development of maritime international law and practice make it a topic worthy of the most careful consideration at the present time, when so much thought is given to naval affairs in their international relations. It has been considered advisable that the Naval War Code of 1900 be made the basis of the conferences in international law for the session of the United States Naval War College for the summer of 1903.

In the original preparation of the code, certain debatable points were submitted and opinions upon them asked. These were as follows:

1. Prohibition of bombardment of open or unfortified towns on seacoast.
2. Adoption of additional articles of Geneva Convention as formulated at The Hague, with the exception of Article 6 and the addition of a proviso to No. 3, that all neutral hospital ships shall, before and during action, attach themselves to one belligerent or the other and be subject to its regulations and fly its flag at the main, with red cross underneath.
3. Prohibition of use of false colors by men-of-war at any time.
4. The abolition of the *jus angariae* or seizure of neutral vessels or property for war purposes, except in the case of overpowering military necessity.
5. Exemption of fishing boats and fishermen; fish to be paid for if seized as a military necessity.

6. The exercise of the right of inquiry upon neutral men-of-war approaching a blockade or investment. If false colors were universally prohibited this would not be necessary.

7. Ransom of unfortified towns: If refused, the penalty. Should it be forbidden?

8. Should such a status as war rebel be further recognized? Vide Lieber's G. O. 100, Inst. to Armies, etc.

9. Is a collier attending a fleet of an enemy guilty of unneutral service or only of carriage of contraband of war? Should vessel and cargo be both seized?

10. Should a continuous-voyage liability be applied to vessels carrying goods that are contraband or presumably for the violation of blockade?

11. Should multiplied retaliation be severely prohibited, i. e., the shooting or hanging of more than one for one, etc.?

The code has not been tested by actual war; therefore, precedents which it might be desirable to maintain for the sake of strengthening the code itself have not been established. The code can therefore be considered without prejudice which might be favorable to a rule that had already become strengthened through action in accordance with it, or found unsatisfactory or insufficient when tried in action.

The points for discussion which have been raised are based upon material furnished by officers of the Navy, by students of international law, by critics and writers who have given attention to the code in America and in Europe.

The English, French, and Italians have thus far paid most attention to the code. So far as possible their queries and criticisms are embodied in the discussions. The changes which may be desirable in consequence of development and changes naturally coming with the passage of time are also to be considered.

The points proposed for discussion seem in some instances trivial, but all are based on criticisms or questions that have come from persons or from other sources of sufficient weight to deserve consideration. It was also judged expedient to introduce so many as possible of these points upon which questions had been raised, in order that the code might be viewed as widely as the time limits of the discussions would permit.

## INTERNATIONAL LAW DISCUSSIONS, 1903.

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### THE UNITED STATES NAVAL WAR CODE OF 1900.

#### EXPLANATION.

In the following pages the article or articles of the Naval War Code upon which questions are raised or upon which discussions are based will in each case precede the questions and discussions. The code as a whole will be found at the end of the discussions, on pages 101-114. On the pages following the code will be found the Instructions for the government of armies of the United States in the field, pages 115-139; Convention between the United States of America and certain powers with respect to the laws and customs of war on land (Hague Convention, proclaimed by the United States April 11, 1903), pages 141-158; Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of August 22, 1864 (proclaimed by the United States November 1, 1901), pages 159-167.

#### DISCUSSIONS.

##### SECTION I.—HOSTILITIES.

###### *Article 1.*

The general object of war is to procure the complete submission of the enemy at the earliest possible period, with the least expenditure of life and property.

The special objects of maritime war are: The capture or destruction of the military and naval forces of the enemy; of his fortifications, arsenals, dry docks, and dockyards; of his various military and naval establishments, and of his maritime commerce; to prevent his

procuring war material from neutral sources; to aid and assist military operations on land, and to protect and defend the national territory, property, and sea-borne commerce.

(a) Would it be advisable to insert in Article 1 after line 3 as the clause beginning line 4 the words, "The general object of maritime war is to deprive the enemy of the use of the sea?"

The question in regard to the insertion of the words "The general object of maritime war is to deprive the enemy of the use of the sea" is raised in consequence of the position taken by certain French writers. Logically, there might be a statement of (1) the general object of all war, (2) the general object of the phase of war of which the code treats, (3) the special object of maritime war. Granting this arrangement, would the clause cover the objects of maritime war at the present time? Would it cover those measures which might be taken to inflict injury upon land defenses, etc.; or the measures to cooperate with the army in various ways?

In the first half of the nineteenth century the object of maritime war was for the most part to deprive the enemy of the use of the sea, but with the increase in the use of steam, the lengthening range of guns, etc., there has come an enlargement of the field of maritime control and of the range of objects at which it aims.

The general object of maritime war is not different from the general object of war as a whole. The field of operations is somewhat restricted, however. "The capture or destruction of the military and naval forces of the enemy; of his fortifications, arsenals, dry docks, and dockyards; of his various military and naval establishments, and of his maritime commerce; to prevent his procuring war material from neutral sources; to aid and assist military operations on land, and to protect and defend the national territory, property, and sea-borne commerce," are stated as the objects of maritime war. Yet some of these acts are no more the objects of maritime war in themselves than the killing of individuals in uniform is the object of land warfare. These measures

are such as are allowed with view to attaining the submission of the enemy. The destruction of a fortification or of commerce is not in itself the object of war, but merely a means to attain the object, and by the first section of this article should be reduced to the minimum, i. e., there should be "the least expenditure of life and property."

It is important to distinguish the object from the justifiable means of attaining the object. There is a growing tendency to penalize the nation which mistakes the means for the end. Certain measures may be used as contributory to the general object of war. Of course, it will be difficult at times to determine what is contributory, but action that is distinctly not contributory even though enumerated among the special objects, may not be justifiable, and may be censured. Censure might arise in consequence of the destruction of such a structure as a privately owned shipyard, provided such destruction was not reasonably necessary to the ends of the military or naval undertaking, though it might, under conceivable circumstances, be of service to the enemy.

The first part of Article 1 might well read: "The general object of war is to procure the complete submission of the enemy at the earliest possible period with the least expenditure of life and property."

"In maritime operations the usual measures for attaining this object are: The capture or destruction of the military and naval forces of the enemy, etc."

(b) Would a dry dock within hostile territory, owned and managed by a private company and sufficiently large to receive a ship of war, be liable to the same treatment as would fortifications and arsenals?

The destruction of a dry dock owned and managed by a private company would, from the context, not be included in the same class as fortifications and arsenals, which are distinctly classed as belonging to the enemy, i. e., "of his fortifications, etc."

While a public dry dock would be liable to capture or destruction, a private dry dock does not fall into this

category until it becomes such as to afford aid to the enemy. It may be in itself a commercial undertaking of value in peace and not specially designed for war, as would be the case of an arsenal or fortification.

The capture of the privately owned dry dock would of course be entirely justifiable at any time as a measure of war. The destruction is not justifiable under the same provision as that in regard to arsenals and fortifications, which are public and by nature adapted for war; but being private, if destruction be permissible at all, it must be based on Article 3, which, following the majority of authorities, would allow such an act if justified by a reasonable military necessity. Article XXIII (g) of The Hague Convention, with respect to the laws and customs of war on land, prohibits the destruction or seizure of "enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war." Taylor, in his recent book, *International Public Law*, page 547, says: "Private property according to existing rules is treated even more favorably than that of the public. Except in extreme cases, to be mentioned hereafter, it is both respected and protected. At The Hague it was declared that family honor and rights, individual lives and private property, as well as religious liberty and worship, must be respected. Private property can not be confiscated." "All private property, even that of the individual sovereign, is now respected, at least in theory, and booty therein is not permitted. As Zachariä expresses it, private property of the enemy can be touched only so far as the necessities of war require, for it is part of the war power of its country only so far as that country could itself exercise dominion over it."

Of course a commanding officer must himself judge as to whether a military necessity exists. To destroy the privately owned dry dock, except from military necessity, would constitute "wanton devastation" forbidden by Article 3 of the Naval War Code.

(c) How would a pleasure yacht be treated under the provisions of Article 1?

This question is raised because Article 25 specifies "merchant vessels, yachts, or neutral vessels," seeming to create a distinct class. The interpretation that has been given to the word "commerce" under the Constitution would probably be sufficiently wide to include pleasure yachts, but not if they are placed in a class by themselves. Hence, under Article 1, as interpreted with view to Article 25 and some of the earlier articles in Section IV as, e. g., Article 14, a pleasure yacht would not be included.

It would therefore have to be captured if at all under Article 3, which would be very difficult of application, because the proof of military necessity in the capture of a pleasure yacht would not be easy and often would be impossible. Hence, some provision should be made elsewhere in the code for such capture which may be as desirable as the capture of a merchant vessel. This will be introduced later.

(d) One further measure for attaining the objects of war which is becoming of more and more importance is the cutting off of the means of communication between the enemy and the outside world. 'It is therefore decided that the words "and communications" be added after the words "maritime commerce." To avoid possible confusion, it would further be advisable to insert instead of the words "to aid and assist" the words "to cooperate with the Army in" so that the clause would read "to cooperate with the Army in military operations on land."

Article 1 as revised would therefore read:

The general object of war is to procure the complete submission of the enemy at the earliest possible period, with the least expenditure of life and property.

In maritime operations the usual measures for attaining this object are: To capture or destroy the military and naval forces of the enemy; his fortifications, arsenals, dry docks, and dockyards; his various military and naval establishments, and his maritime commerce and communications;—to prevent his procuring war material from neutral sources;—to cooperate with the Army in military operations on land, and to protect and defend the national territory, property, and sea-borne commerce.

The above form was agreed upon as covering essential amendments provided Article 1 be retained in the code. It was, however, the general opinion—

1. That the article served no essential purpose because the general object of war is well known and needs no definition and the measures of maritime warfare vary with circumstances.

2. That it might tend to restrict an officer in the exercise of his functions rather than make these more clear to him.

A majority of the officers in attendance upon the conference were of the opinion that Article 1 should be stricken out entirely.

#### *Article 2.*

The area of maritime warfare comprises the high seas or other waters that are under no jurisdiction, and the territorial waters of belligerents. Neither hostilities nor any belligerent right, such as that of visitation and search, shall be exercised in the territorial waters of neutral States.

The territorial waters of a State extend seaward to the distance of a marine league from the low-water mark of its coast line. They also include, to a reasonable extent, which is in many cases determined by usage, adjacent parts of the sea, such as bays, gulfs, and estuaries inclosed within headlands; and where the territory by which they are inclosed belongs to two or more States, the marine limits of such States are usually defined by conventional lines.

How should such a body of water as Long Island Sound be regarded under the provisions of Article 2?

This situation does not from the point of view of the United States admit of discussion. It is the established rule that such waters as Long Island Sound are territorial waters of the United States. The jurisdiction over gulfs and bays having a mouth considerably over 6 miles wide is still open to difference of opinion. Hall briefly summarizes the current opinion as follows:

In any case the custom of regarding a line three miles from land as defining the boundary of marginal territorial waters is so far fixed that a state must be supposed to accept it in the absence of express notice that a larger extent is claimed.



The question of the principle upon which the extent of marginal waters should be founded and of the breadth of water that should be included, has of late attracted a considerable amount of attention. It is felt, and growingly felt, not only that the width of three miles is insufficient for the safety of the territory, but that it is desirable for a state to have control over a larger space of water for the purpose of regulating and preserving the fishery in it, the productiveness of sea fisheries being seriously threatened by the destructive methods of fishing which are commonly employed, and in many places by the greatly increased number of fishing vessels frequenting the grounds.

After being carefully studied and reported upon by a Committee of the Institut de Droit International, the subject was exhaustively discussed by the Institut at its meeting in Paris, in 1894, the exceptionally large number of thirty-nine members being present. With regard to the necessity of ascribing a greater breadth than three miles of territorial water to the littoral state there was no difference of opinion. As to the extent to which the marginal belt should be enlarged, and the principle upon which enlargement should be based, the same unanimity was not manifested, but ultimately it was resolved by a large majority that a zone of six marine miles from low-water mark ought to be considered territorial for all purposes, and that in time of war a neutral state should have the right to extend this zone by declaration of neutrality or by notification, for all purposes of neutrality, to a distance from the shore corresponding to the extreme range of cannon. (International Law, 4th ed., p. 160 and note.)

### *Article 3.*

Military necessity permits measures that are indispensable for securing the ends of the war and that are in accordance with modern laws and usages of war.

It does not permit wanton devastation, the use of poison, or the doing of any hostile act that would make the return of peace unnecessarily difficult.

Noncombatants are to be spared in person and property during hostilities, as much as the necessities of war and the conduct of such noncombatants will permit.

The launching of projectiles and explosives from balloons, or by other new methods of a similar nature, is prohibited for a term of five years by the Declaration of The Hague, to which the United States became a party. This rule does not apply when at war with a noncontracting Power.

(a) In Article 3, line 4, should the clause "the use of poison" be stricken out?

The first clause, "military necessity permits," etc., provides that only such measures shall be used as are in accord "with modern laws and usages of war."

If there is one measure that is fully understood to be forbidden by the modern laws and usages of war, it is "the use of poison." This is forbidden by all codes. (See Hague Convention with respect to the laws and customs of war on land, Art. 23.) There is no more reason for insertion of "the use of poison" than of many other clauses; indeed less, because the use of poison is more generally forbidden than almost any other act. The clause should therefore be stricken out unless other specifications are to be introduced.

(b) In the same place, should the following be inserted? "The destruction of great public works primarily and mainly intended to promote commerce."

There has been much discussion upon the advisability of forbidding the destruction of "great public works primarily and mainly intended to promote commerce."

The Suez Canal already has a quasi neutralization. By the Convention of 1888 it was agreed that a system should be established to "guarantee at all times, and for all the powers, the free use of the Suez maritime canal." The articles showing the nature of this agreement as touching Article 3 of the Naval War Code are as follows:

#### ARTICLE I.

The Suez maritime canal shall always be free and open, in time of war as in time of peace, to every vessel of commerce or of war, without distinction of flag.

Consequently, the high contracting parties agree not in any way to interfere with the free use of the canal, in time of war as in time of peace.

The canal shall never be subjected to the exercise of the right of blockade.

#### ARTICLE IV.

The maritime canal remaining open in time of war as a free passage, even to the ships of war of belligerents, according to the terms of Article 1 of the present treaty, the high contracting parties agree that no right of war shall be exercised, nor shall any act of hostility, or any act having for its object to obstruct the free navigation of the canal, be committed in the canal and its ports of access, nor within a radius of 3 marine miles from those ports, even though the Ottoman Empire should be one of the belligerent powers.

Vessels of war of belligerents shall not revictual or take in stores in the canal and its ports of access, except in so far as may be strictly

necessary. The transit of the aforesaid vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and without any other intermission than that resulting from the necessities of the service.

Their stay at Port Said and in the roadstead of Suez shall not exceed twenty-four hours, except in case of distress. In such case they shall be bound to leave as soon as possible. An interval of twenty-four hours shall always elapse between the sailing of a belligerent ship from one of the ports of access and the departure of a ship belonging to the hostile power.

#### ARTICLE V.

In time of war belligerent powers shall not disembark nor embark within the canal and its ports of access either troops, munitions, or materials of war. But in case of an accidental hindrance in the canal, men may be embarked or disembarked at the ports of access by detachments not exceeding 1,000 men, with a corresponding amount of war material.

#### ARTICLE VI.

Prizes shall be subject, in all respects, to the same rules as the vessels of war of belligerents.

#### ARTICLE VII.

The powers shall not keep any vessel of war in the waters of the canal (including Lake Timsah and the Bitter Lakes).

Nevertheless, they may station vessels of war in the ports of access of Port Said and Suez, the number of which shall not exceed two for each power.

This right shall not be exercised by belligerents. (Holland, *Studies in International Law*, p. 289.)

It is proposed to give to the Panama or any similar great commercial undertaking exemption because an easily inflicted injury might destroy the work of years without giving to the belligerent any corresponding military advantage, e. g., the breaking of a dam which might flood or destroy much of the work on the Panama Canal.

If the United States constructs the canal without any provision for neutralization other than that in the Hay-Pauncefote Treaty of 1901, which is binding on Great Britain and the United States, some provision in regard to great public works might be desirable, provided other nations agree to the same rule. The advisability of an international agreement in regard to such great public

works is admitted, but it would not be advisable for the United States to forbid its officers action which other states do not deny to their officers.

Therefore the provisions of this clause as it stands, omitting "the use of poison," because that is covered by general rules, should stand.

(c) Under the provisions of the clause beginning "Noncombatants are to be spared," etc., should an unarmed dispatch boat be treated in any respects differently from an armored enemy's vessel; if so, in what respect?

The vessel is liable to treatment as a vessel engaged in the service of the enemy. In respect to the vessel, this case falls under the first paragraph of Article 13, and in respect to the personnel, under Article 10 of the code, which are as follows:

ART. 13. All public vessels of the enemy are subject to capture, except those engaged in purely charitable or scientific pursuits, in voyages of discovery, or as hospital ships under the regulations hereinafter mentioned.

ART. 10. The personnel of all public unarmed vessels of the enemy, either owned or in his service as auxiliaries, are liable, upon capture, to detention as prisoners of war.

(d) In the application of The Hague rule in regard to the launching of projectiles and explosives, what would be the effect if an enemy contracting party should make an offensive and defensive alliance with a noncontracting party?

This rule would cease to be binding. This portion of the code should read:

By the Declaration of The Hague, signed July 29, 1899, to which the United States is a party, it is provided that:

The contracting powers agree to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, or by other new methods of similar nature.

The present Declaration is only binding on the contracting powers in case of war between two or more of them.

It shall cease to be binding from the time when in a war between the contracting powers one of the belligerents is joined by a non-contracting power.

(e) Should this Hague rule be renewed at the expiration of the five-year period?

The reasons for the limitation of the period to five years are shown in the report of The Hague Conference, made by the late Mr. Holls:

On the subject of balloons, the subcommittee first voted a perpetual prohibition of their use, or that of similar new machines, for throwing projectiles or explosives. In the full committee, on motion of Captain Crozier, the prohibition was unanimously limited to cover a period of five years only. The action taken was for humanitarian reasons alone, and was founded upon the opinion that balloons, as they now exist, form so uncertain a means of injury that they can not be used with accuracy. The persons or objects injured by throwing explosives may be entirely disconnected from the conflict, and such that their injury or destruction would be of no practical advantage to the party making use of the machines. The limitation of the prohibition to five years' duration preserves liberty of action under such changed circumstances as may be produced by the progress of invention. (The Peace Conference at The Hague, p. 95.)

The reasons that applied at the time of the Peace Conference are equally valid at the present time; therefore the article, as cited under (d) above, from present indications, should be renewed.

#### *Article 4.*

The bombardment, by a naval force, of unfortified and undefended towns, villages, or buildings is forbidden, except when such bombardment is incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, or unless reasonable requisitions for provisions and supplies essential, at the time, to such naval vessel or vessels are forcibly withheld, in which case due notice of bombardment shall be given.

The bombardment of unfortified and undefended towns and places for the nonpayment of ransom is forbidden.

(a) Would it not be more strictly correct and in accord with the best opinion so to amend Article 4 as to read:

The bombardment by a naval force of unfortified and undefended towns, villages, or buildings is forbidden, though such towns, villages, or buildings are liable to the damages incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, and such towns,

villages, or buildings are liable to direct bombardment when reasonable requisitions for provisions and supplies at the time essential to the naval force are withheld, in which case due notice of bombardment shall be given.

The rules adopted by the Institute of International Law at Venice, 1896, provide:

ART. 1. There is no difference between the rules of the law of war as to bombardment by military forces on land and that by naval forces.

The Hague Convention, with respect to the laws and customs of war on land, provides:

ART. XXV. The attack or bombardment of towns, villages, habitations, or buildings which are not defended is prohibited.

ART. XXVI. The commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

ART. XXVII. In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

The situation is, however, somewhat different in bombardment by land forces. It is evident, however, that it was not the intent that these rules of The Hague Convention should apply to naval warfare, as the conclusions of The Hague Conference contain, in the seventh resolution, the following statement: "The Conference expresses the wish that the proposition of regulating the question of bombardment of ports, cities, or villages by a naval force should be referred for examination to another conference."

As Article 4 of the code now reads, it has been held that unfortified and undefended towns may be bombarded directly, when such direct bombardment is a part of a more general attempt at the destruction of military or naval establishments, public depots of munitions of war, etc. It has been held that such bombardment might be undertaken upon a given day with the expectation that at some future time the

“military or naval establishments,” etc., would be bombarded.

Such action would not be permissible, however, according to the best opinion of modern times. Bombardment can only be aimed at “military or naval establishments,” etc., as named in Article 4. The “unfortified and undefended towns, villages, or buildings” may without direct intention be injured in the fire incidental to such bombardment. Such injury can not be called bombardment of the “towns, villages, or buildings.”

It should be observed that a single act of forcible resistance to an order of a properly authorized military officer may constitute defense. A town, village, or dwelling may thus easily pass from an undefended to a defended condition.

The requisition for supplies must be reasonable and must be properly made. The characteristics of such action are indicated by the Hague Convention with respect to the laws and customs of war on land.

ART. LII. Neither requisition in kind nor services can be demanded from communes or inhabitants, except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged.

To avoid possible misinterpretation, the clause should read: “The bombardment, by a naval force, of unfortified and undefended towns, villages, or buildings is forbidden, though such towns, villages, or buildings are liable to the damages incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, and such towns, villages, or buildings are liable to bombardment when reasonable requisitions for provisions and supplies at the time essential to the naval force are withheld, in which case due notice of bombardment shall be given.”

(b) Should the clause "The bombardment of unfortified and undefended towns and places for the nonpayment of ransom is forbidden," be stricken out?

The clause "The bombardment of unfortified and undefended towns and places for the nonpayment of ransom is forbidden" should be retained as a part of the code. The matter of such bombardment has been recently and quite fully discussed before this Naval War College by Prof. John Bassett Moore and will be found in the publications of the Naval War College, International Law Situations with Solutions and Notes, 1901, pages 5-37. Latest opinion and practice alike support the retention of this clause of Article 4.

(c) Should a clause to the effect that "An open town which is defended against the entrance of troops or disembarked marines may be bombarded in order to protect the landing of soldiers and marines if the open town attempts to prevent it, and as an auxiliary measure of war, in order to facilitate an assault made by the troops and the disembarked marines, if the town defends itself," be inserted?

The insertion of such a provision is unnecessary, as "an open town" which is in the position described is no longer "an open town" in the sense of an undefended town, which is the town exempt by Article 4; therefore the town, by defense against the entrance of troops or disembarked marines, becomes liable to the military operations which might include bombardment if circumstances made it necessary.

(d) Would bombardment of an open town be justifiable in case a division of the enemy's army occupies the town and refuses to surrender on demand of the United States naval force?

The Institute of International Law, in its session in September, 1896, adopted the following regulation:

An open town may not be exposed to bombardment by the sole fact:

1. That it is the capital of a state or the seat of government (but, naturally, these circumstances give it no guarantee against bombardment).



2. That it is actually occupied by troops, or that it is ordinarily garrisoned by troops of various arms, destined to rejoin the army in time of war.

This rule, if generally accepted, would not cover the case under consideration, however, for the occupancy by the enemy's troops is not the sole fact nor even the important fact in this case. The important fact is that an armed force refuses on demand to surrender, and the fact that it remains in "an open town" in name, can not exempt the town or force from the necessary military measures. The town, in fact, becomes defended under these circumstances and is liable to treatment as such a town.

(e) The harbor of an unfortified town is supposed to contain submarine mines making entry dangerous. The commanding officer of the United States naval forces requests assurances in regard to the condition of the harbor. This is refused. Is the officer justified in bombarding the town in order to obtain an answer or as a measure of war?

The refusal to give information or assurances to the commanding officer leaves him no alternative other than to assume that the town is defended against approach from the sea. Such being the case, he is justified in bombarding the town after due notice, either in order to obtain an answer to his reasonable request for information or as a measure of war.

#### *Article 5.*

The following rules are to be followed with regard to submarine telegraphic cables in time of war, irrespective of their ownership:

(a) Submarine telegraphic cables between points in the territory of an enemy, or between the territory of the United States and that of an enemy, are subject to such treatment as the necessities of war may require.

(b) Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy.

(c) Submarine telegraphic cables between two neutral territories shall be held inviolable and free from interruption.

(a) Should the clause, "or at any point outside of neutral jurisdiction, if the necessities of war require," be added to (b) under Article 5?

After consideration of recent practice and the discussions in regard to the treatment of submarine telegraphic cables, it would seem best to elaborate the first clause of Article 5. It was evidently not intended to require that the provisions of Article 5 should be followed invariably. Accordingly the first clause should read as follows: "Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraphic cables in time of war, irrespective of their ownership."

Clauses (a) and (c) are generally accepted as correct statements of the rules to be followed in case of cables connecting belligerent points on the one hand and neutral points on the other.

The situation involved in clause (b), "Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy," in various forms has been much discussed. It has been claimed that a submarine telegraphic cable between the territory of an enemy and neutral territory (1) should not be interrupted under any conditions, (2) could be interrupted only within the three-mile limit, (3) could be interrupted only when the belligerent landing place was under effective blockade, and (4) could be interrupted at any point outside of neutral jurisdiction if military necessity required such interruption. Others would modify some of these provisions further according to ownership, location, etc.

The subject of the treatment of submarine telegraphic cables was quite fully considered in the report of the Interdepartmental Committee on Cable Communications, made to the English Parliament, March 26, 1902. The Institute of International Law also gave the subject much attention at its meeting in September, 1902. The English committee admits that arrangements should be made "on the supposition that a considerable propor-

tion of cables will be cut," and that "it will be the interest of the belligerents to interrupt or control, by censorship, the telegraphic communications of their adversaries, even to the degree of occasioning detriment to neutrals and of incurring liability to make compensation to them for arbitrary interference with their cables." (Certain phases of the subject of the treatment of submarine telegraphic cables in time of war were discussed in the International Law Situations, Naval War College, 1902, pp. 7-20.)

At the session of the Institute of International Law in 1902 the question of the treatment of submarine telegraphic cables in time of war received much attention. Bearing upon the case of cables connecting neutral and belligerent territory, Von Bar, one of the German representatives, advanced the following proposition:

Comme les pays neutres ont le droit de communiquer librement avec les belligérants, les seuls titres admissibles pour entraver ou couper cette communication libre étant le blocus effectif et l'occupation militaire, il y a lieu de tirer les conclusions suivantes:

(a) Le câble sous-marin reliant un territoire neutre à un territoire appartenant à une des parties en guerre ne peut être coupé par un des belligérants que dans les cas suivants:

En pleine mer ou dans la mer territoriale de l'État ennemi, s'il y a blocus effectif et que ce blocus embrasse le rayon où se trouve le câble;

Dans le territoire ennemi même, si l'endroit de la côte où aboutit ou l'île où passe le câble est occupé, soit pour un temps prolongé, soit momentanément, par la partie belligérante.

En dehors de ces cas, le câble en question est inviolable en pleine mer comme dans la mer territoriale de la partie ennemie.

(b) Le droit de s'emparer et de profiter du câble en question n'existe que dans les cas où il y a droit de le couper.

(c) Il n'y a pas de différence à établir, quant au droit d'un État belligérant de couper un câble sous-marin ou de l'exploiter, entre les câbles exploités par un gouvernement neutre et les câbles exploités par des compagnies privées concessionnaires.

(d) Dans les cas précités où existe le droit de l'État belligérant de couper un câble sous-marin ou de s'en emparer autrement, aucun dédommagement du chef de l'exercice de ce droit n'est dû à la compagnie ni à l'État à qui appartient le câble, ni aux personnes qui auraient fait câbler des dépêches. (Annuaire de L'Institut de Droit International, 19, 1902, p. 12.)

Von Bar further says (p. 16):

Il me semble pourtant, sans qu'il soit nécessaire de faire usage de la théorie du droit d'angarie, droit douteux et souvent contesté, que l'on peut poser simplement comme règle générale que les États neutres, et de même leurs sujets, ont le *droit de communiquer librement* avec l'une et l'autre des parties belligérantes et leurs territoires, et qu'on ne doit reconnaître à cette règle que deux exceptions, dont l'une se fonde sur *l'occupation militaire* et l'autre sur le droit de *blocus*.

Comme la pleine mer ne peut être occupée, il ne peut être permis de couper un câble servant de communication entre un pays neutre et un territoire ennemi, et comme le blocus, pour donner le droit d'interrompre les communications des neutres avec l'ennemi, doit être *effectif*, il n'y a pas lieu d'étendre l'exception de manière à permettre la destruction d'un câble en pleine mer à la seule condition que cela se fasse à une distance du territoire ennemi où un blocus *peut* être exercé, mais n'est pas pratiqué réellement.

La question spéciale la plus délicate est peut-être celle de savoir si l'État belligérant a le droit de couper des câbles reliant un territoire neutre à un territoire ennemi dans les *eaux territoriales* de l'ennemi. Il semble juste de faire dépendre la solution de la possibilité d'une occupation réelle. Dans les eaux territoriales, soumises complètement à la souveraineté de l'État et, de ce chef, pouvant être occupées réellement, ce droit existe. Mais il n'existe pas quant à la mer territoriale dans le sens des résolutions de l'Institut de 1894 (*Annuaire*, 13, p. 329) ("Küstenmeer"), cette partie de la mer n'étant pas complètement soumise à la souveraineté exclusive de l'État riverain, et servant, au contraire, au commerce général et libre du monde entier.

Renault, one of the French members, disagreed with Von Bar, saying, that while agreeing with (b), (c), (d), above, he did not agree with (a).

Dans le cas d'un câble sous-marin reliant un territoire neutre au territoire de l'un des belligérants, j'admets pour l'autre belligérant le droit de couper le câble, soit sur le territoire ou dans les eaux territoriales de son adversaire, soit même en pleine mer.

Je ne distingue pas suivant qu'il y a ou non blocus. (*Annuaire* 1902, p. 18.)

Other propositions were advanced. Professor Holland, of Oxford, offered the following (p. 301):

1. Le câble télégraphique sous-marin, unissant deux territoires neutres, est inviolable. (*Institut de Droit international*, 1879.)
2. Le câble reliant les territoires de deux belligérants ou deux parties du territoire d'un des belligérants peut être coupé partout, excepté dans les eaux territoriales neutres.

3. Le câble reliant un territoire neutre à un territoire appartenant à un des belligérants ne peut être coupé que dans les eaux territoriales de ce belligérant.

4. En ce qui concerne l'application des règles précédentes, il n'y a de différence à établir, ni entre les câbles d'État et les câbles appartenant à des individus, ni entre les câbles de propriété ennemie et ceux qui sont de propriété neutre.

5. Quand la coupure d'un câble est permise selon les règles précédentes, aucune indemnité n'est due aux propriétaires ennemis du câble pour cet acte, accompli comme opération de guerre. (Les prescriptions de l'article 53 de la Convention de La Haye ne sont pas applicables à ce cas.)

6. Au contraire, le belligérant qui a coupé un câble de propriété neutre (soit d'État, soit d'individus), dans l'exercice d'un droit analogue au *jus angariae* [ou de visite en haute mer (1)], est tenu des frais de réparation. Il n'est pas tenu d'indemniser les propriétaires pour la perte de leurs bénéfices. (Annuaire 1902, p. 301.)

Professor Perels, of Berlin, offered the following (p. 302):

1. Le câble télégraphique sous-marin reliant des territoires neutres est inviolable.

2. La liberté d'action des belligérants n'est pas restreinte, si le câble relie leurs territoires respectifs ou deux points du territoire d'un seul des belligérants.

3. Pour le cas où le câble relierait le territoire d'un belligérant et le territoire d'un neutre, une réglementation générale n'est pas possible actuellement. Les mesures à prendre dépendront, selon les circonstances, des opérations militaires; elles ne dépendent nullement du droit de propriété des câbles.

Dans l'intérêt du commerce international, il est cependant désirable de ne détruire ou interrompre la communication télégraphique que si la nécessité militaire l'exige.

Rolin, editor of the *Revue de droit international et de législation comparée* made the following proposition (p. 317):

Le câble sous-marin reliant un territoire neutre à un territoire appartenant à une des parties en guerre ne pourra en aucun cas être coupé par un des belligérants dans les eaux territoriales ou neutralisées dépendant d'un territoire neutre.

Il pourra être coupé, selon les nécessités des opérations militaires, sur le territoire et dans les eaux territoriales de l'ennemi.

Il pourra également être coupé en pleine mer, si après avoir notifié à l'État neutre l'interdiction de transmettre des dépêches, etc. \* \* \*

Upon a vote of the Institute of International Law in 1902, as to whether it should be absolutely forbidden to

interrupt in the high sea a cable uniting a belligerent and a neutral, 14 favored absolute prohibition of interruption of such cable in the high sea, 17 opposed such prohibition, and 1 did not vote. A subsequent vote showed that although the institute was not in favor of absolute prohibition of interruption of cables in the high sea, it was not, therefore, of the opinion that the right to interrupt was unlimited.

Finally the institute, 19 voting in the affirmative, 6 in the negative, and 4 not voting, adopted the following (p. 331):

**RÈGLES CONCERNANT LES CÂBLES SOUS-MARINS EN TEMPS DE GUERRE.**

I. Le câble sous-marin reliant deux territoires neutres est inviolable.

II. Le câble reliant les territoires de deux belligérants ou deux parties du territoire d'un des belligérants peut être coupé partout, excepté dans la mer territoriale et dans les eaux neutralisées dépendant d'un territoire neutre ("neutralisées" par traité ou par déclaration conformément à l'article 4 des résolutions de Paris de 1894).

III. Le câble reliant un territoire neutre au territoire d'un des belligérants ne peut en aucun cas être coupé dans la mer territoriale ou dans les eaux neutralisées dépendant d'un territoire neutre.

En haute mer, ce câble ne peut être coupé que s'il y a blocus effectif et dans les limites de la ligne du blocus, sauf rétablissement du câble dans le plus bref délai possible. Ce câble peut toujours être coupé sur le territoire et dans la mer territoriale dépendant d'un territoire ennemi jusqu'à une distance de trois milles marins de la laisse de basse-marée.

IV. Il est entendu que la liberté de l'État neutre de transmettre des dépêches n'implique pas la faculté d'en user ou d'en permettre l'usage manifestement pour prêter assistance à l'un des belligérants.

V. En ce qui concerne l'application des règles précédentes, il n'y a de différence à établir ni entre les câbles d'État et les câbles appartenant à des particuliers, ni entre les câbles de propriété ennemie et ceux qui sont de propriété neutre.

The above rules are in some respects more exact than those of the Naval War Code, though, as the discussions show, not wholly satisfactory to members of the Institute.

The first rule is essentially the same as that of the Naval War Code.

The second rule contains a provision protecting a cable which connects belligerent in so far as it is

actually within neutral jurisdiction. This is covered by Article 2 of the Naval War Code, however.

The third rule is more detailed and specific than the provisions of the Naval War Code, which is that "Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy." The rules of the institute cover this point in the last clause of this third rule. In regard to this provision of the Naval War Code, the statement is that such cables may be cut within enemy jurisdiction, and not that they are not to be cut elsewhere. It is certain that such a cable should not be interrupted by any act which itself shall take place within neutral jurisdiction. It would not, of course, be allowable for any belligerent to cut any cable within the three-mile limit of a neutral state. There is then left entirely undetermined the status of cables between an enemy and a neutral so far as they lie in the high seas.

If cables between neutrals and belligerents can be cut only within the jurisdiction of the belligerent, it would be good policy for a belligerent to see that, so far as possible, immediately on the outbreak of hostilities a neutral landing place be interposed between the termini of all his cables or to make provision for neutral landing places in their original construction, thus leaving only the guardianship of the cable line within the three-mile limit for the belligerent's cruisers. This would probably not be maintained seriously in a case necessitating the cutting of a cable, even beyond the three-mile limit, or, as was maintained in the Spanish-American war, "the limit of the range of the enemy's gun." (Wilson, *Submarine Telegraphic Cables in their International Relations*. Lectures, Naval War College, Newport, 1901, p. 32.)

Further, it may be said: "This code does not, however, cover the debatable points in regard to cables which are beyond the three-mile limit or other limits of jurisdiction of a belligerent and the same limits of a neutral state. The status of such cables must be determined, for the

present, by reference to general principles and the tendency is to so determine their status. This is necessary because great injury might be done to one or both of the belligerents if the laws of different states might say what was proper service in the time of war, as was formerly thought to be possible unless a convention was adopted among the leading states. If the material of which the cable is to be made is liable to seizure and confiscation on the high sea in the time of war, then it is not too much to claim that the cable itself, when in full operation, is liable to the consequences of war under like circumstances." (Ibid, p. 37.)

The rule of the Institute tries to cover the treatment of cables beyond the territorial jurisdiction of the belligerent by specifying that only within the limits of effective blockade is cutting allowable. The fourth rule introduces an idea, which, if carried out, would make all cutting unnecessary, for it is only to prevent the transmission of hostile messages that cutting is necessary within the territorial jurisdiction of the enemy, within blockade lines, or at any other point. The destruction of a harmless cable would be prohibited as wanton devastation. It will be evident that if the fourth rule can be enforced the third will be unnecessary, because a cable of this class would not be used for hostile purposes. If the fourth rule is not enforced, the limitation of cutting to the places specified in the third rule becomes arbitrary.

The fourth of these rules in regard to cables adopted by the Institute states that "It is intended that the liberty of the neutral state to transmit dispatches shall not involve the right to use or to permit their use, manifestly for lending aid to one of the belligerents." This rule does not, however, provide any means for the prevention of the use which is forbidden.

If a submarine cable connecting one belligerent and a neutral state is used to aid that belligerent, the other belligerent doubtless has a right to prevent such use in any reasonable manner provided he does not thereby violate neutral territory or neutral rights. This fourth



rule provides that the neutral has no right to permit the cable to be used manifestly to aid one of the belligerents. If the neutral does not prevent such use, then the other belligerent impliedly must take action. The action most feasible and certain is often the cutting of the cable outside of neutral jurisdiction. Therefore, if military necessity justifies such action, it may be taken. The officer responsible for the interruption must realize that he assumes the responsibility and that this responsibility should be assumed only when based on military necessity. As M. Renault well said in the discussion, "Il faut qu'a des moyens d'attaque nouveaux correspondent des moyens de defense nouveaux: le moyen d'attaque étant devenu plus rapide et plus dangereux, le moyen de defense peut devenir plus dur, puisque autrement il n'y aurait plus aucun moyen de defense du tout." (Annuaire, 1902, p. 314.)

Pending an international agreement, the following wording would meet the requirements of the United States Navy, while giving reasonable guarantee as to the observance of neutral rights:

ART. 5. Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraphic cables in time of war, irrespective of their ownership:

(a) Submarine telegraphic cables between points in the territory of an enemy, or between the territory of the United States and that of an enemy, are subject to such treatment as the necessities of war may require.

(b) Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy or at any point outside of neutral jurisdiction, if the necessities of war require.

(c) Submarine telegraphic cables between two neutral territories shall be held inviolable and free from interruption.

There is no doubt, however, that this whole matter of the treatment of submarine telegraphic cables in time of war should be referred to an international convention for adjustment. So far as the present conditions are concerned the rules as above stated accord with practice, and while opinion is divided, some of the best authorities agree with the above rules and particularly with the

provision that military necessity may compel interruption outside of neutral jurisdiction. [Perels, *Das internationale öffentliche Seerecht der Gegenwart*, Berlin, 1903; p. 186.] The rules should, from the above and from other reasons, read as stated until some international agreement is devised.

(b) Should a provision in regard to wireless telegraphy be inserted in the code?

At the present time, the future of wireless telegraphy is uncertain and the possibility of interruption not fully determined. There is no reason for binding the officers by any regulations in advance of more accurate knowledge of the subject itself and of its possibilities. Therefore the proposition to insert a provision in regard to wireless telegraphy should not be entertained unless by international agreement.

#### *Article 6.*

If military necessity should require it, neutral vessels found within the limits of belligerent authority may be seized and destroyed or otherwise utilized for military purposes, but in such cases the owners of neutral vessels must be fully recompensed. The amount of the indemnity should, if practicable, be agreed on in advance with the owner or master of the vessel. Due regard must be had to treaty stipulations upon these matters.

Could a fast pleasure yacht be seized and used for a dispatch boat under the provisions of Article 6?

“Military necessity, as understood by modern civilized nations, consists in the necessity of those measures which are indispensable for securing the ends of war and which are lawful according to the modern law and usages of war.” (Instructions for the Government of Armies of the United States, Article 14; Naval War Code, Article 3.)

If military necessity exists, the fast pleasure yacht could be seized and used for a dispatch boat without question. A fast pleasure yacht is properly included under the clause “neutral vessels.”

*Article 7.*

The use of false colors in war is forbidden, and when summoning a vessel to lie to, or before firing a gun in action, the national colors should be displayed by vessels of the United States.

(a) Does "war," as used in Article 7, mean the period of actual engagement in hostile action or the period from the declaration to the termination of the war in the general sense?

As war throughout the code is used to indicate the period during which the peaceful relations between states are severed, there is no reason for giving to the word a different interpretation at this point. Therefore, the word does not refer to the engagement, but to the period of hostile relationship between the states, regardless of the issue or failure to issue a declaration.

"No one can claim, as a right, that a public declaration of war shall be promulgated, unless it be the nation by whose government it is made, and then it serves only as a notice to their own citizens and subjects." (Blatchford, Prize Cases; Betts, J., in "Hiawatha," 1.)

"The question of the point of time at which a state of peace gives way to a condition of war is a question of fact. War begins with the first act of open hostility." (Walker, "Science of International Law," p. 243.) Risley, in "The Law of War," page 82, summarizes the present position:

The following conclusions seem to be warranted:

1. War, as affecting belligerents *inter se*, commences from the date of an absolute declaration if its issue precede any act of hostility. In all other cases the war dates from the commencement of hostilities. Thus if a conditional declaration, such as an ultimatum addressed to an offending state, is followed by war, the war will date from the commencement of hostilities and not from the conditional declaration.

2. War, as affecting any neutral power, commences from the date at which the neutral power has, or may reasonably be supposed to have, knowledge of its existence. If a declaration or manifesto is issued, the neutral's knowledge of course dates from the official announcement; in all other cases the conduct of neutrals is entitled to the most favorable construction, and hostilities must have become so open and notorious that ignorance of them on the part of the

neutral is impossible before the liabilities attaching to their neutral character will be enforced by the belligerents.

In modern times, however, questions as to the commencement of war are not likely to arise, because the rapidity of communication, the activity of the press, and the publicity accorded to all matters of domestic and international policy combine to make the outbreak of a war immediately known all over the world. Every state is in fact cognizant of the precise date of its commencement, whether it be the date of an official notification or the date of the commencement of actual hostilities.

(b) Should the entire article be stricken out?

Admitting that "war" applies to the entire period of hostile relationships, and no other interpretation can be given, what does the Article 7 mean?

1. The use of a false flag is forbidden during the period of war.

2. Before or when firing a gun or engaging in action, the flag of the United States should be displayed.

3. There is no obligation to display the flag of the United States till the time of summoning a vessel to lie to or till the time of action. The absence of any flag, or the presence of a flag which is not false, is not mentioned.

Upon 2 and 3 all authorities who refer to the subject are agreed, i. e., that before firing a gun the true flag must be displayed and that till such time no flag need be raised.

There remains the question whether what many regard as a form of perfidy is allowable up to the time of firing a gun and is not allowable at the actual discharge of the gun, when it would be of little or no service other than to establish to a certainty the probable enemy character of the vessel firing the gun. It would not be presumed that a neutral would fire upon a belligerent or one vessel of a belligerent upon another vessel of the same belligerent, consequently it is held that the false flag would be pulled down and the true flag would be displayed at the time when the false flag would be of no further use.

In summoning a neutral vessel to lie to the use of true colors is necessary, however, as it establishes the

identity of the vessel and gives evidence of its right in time of war to interfere with neutral commerce.

The use of false colors in land warfare has been absolutely prohibited, as shown in the following.

Instructions United States Army, 1863, Article 65:

The use of the enemy's national standard, flag, or other emblem of nationality, for the purpose of deceiving the enemy in battle, is an act of perfidy by which they lose all claim to the protection of the laws of war.

Brussels Rules, 1874, Articles 12, 13:

ART. 12. The laws of war do not allow to belligerents an unlimited power as to the choice of means of injuring the enemy.

ART. 13. According to this principle are strictly forbidden:

(f) Abuse of the flag of truce, the national flag, or the military insignia or uniform of the enemy, as well as the distinctive badges of the Geneva Convention.

Oxford Manual, 1880, section 8:

It is forbidden:

(d) To make improper use of the national flag, of signs of military ranks, or of the uniform of the enemy, of a flag of truce, or of the protective marks prescribed by the Convention of Geneva.

Hague Convention, Laws and Customs of War on Land, Article XXIII:

Besides the prohibitions provided by special conventions, it is especially prohibited:

(f) To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention.

It has come to be the generally accepted opinion that "deceit involving perfidy should be forbidden."

The flag is the emblem held most esteemed and sacred among states. It is the usual method of showing allegiance and is to be raised only on sufficient authority.

The use of false colors on land or similar perfidy deprives the users of the "claim to protection of the laws of war."

It is evident that the use of false colors in warfare on the sea may bring about results very different from those which would follow warfare in which false colors were prohibited. Pillet has proposed the establishment of a

zone into which no vessel may come without establishing its identity. He says:

Les transformations de l'armement maritime ont rendu cette règle traditionnelle tout à fait insuffisante au point de vue de la sécurité des belligérants. Il est possible, en effet, qu'un navire de guerre ennemi ne hisse son véritable pavillon qu'au moment précis où il lâche la bordée qui mettra son adversaire hors de combat; il est possible surtout, qu'un torpilleur s'approche à bonne portée, puis arbore ses couleurs et immédiatement lance une torpille contre laquelle le navire visé ne pourra pas toujours se protéger. La tolérance admise quant au pavillon peut ainsi avoir pour conséquence des surprises fatales, surprises que cette seule tolérance permet de pratiquer. Ce n'est évidemment pas pour obtenir de tels résultats que la liberté ancienne a été admise, et on ne prévoyait pas, au moment où cette coutume s'est formée, que la rapidité de certains navires et la puissance de leurs engins de destruction permettraient ainsi de ruiner un vaisseau de guerre avant même qu'il pût savoir qu'il était en présence d'un ennemi. Pour remédier à cet inconvénient qui est grave il conviendrait de s'attacher à une idée émise autrefois par quelques auteurs (De Cussy, Causes célèbres du droit des gens, 1 liv., III, sec. 60; Hautefeuille, Histoire des origines, p. 23; Bluntschli, Völkerrecht, sec. 318; Phillimore, Commentaries upon international law, t. 1, sec. 203) et de conférer aux navires de guerre des belligérants le droit de juridiction sur une certaine zone (de trois milles de rayon par exemple) dont chaque navire serait le centre, et dans laquelle aucun vaisseau de guerre ne pourrait entrer sans se faire reconnaître, à peine d'être traité comme ennemi. Il est à souhaiter que les Puissances maritimes s'occupent de cette difficulté, et qu'une convention internationale soit signée qui consacre la solution que nous proposons. (Les Lois Actuelles de la Guerre, 2d ed., p. 144.)

Hall makes the following statement of such rules as allow false colors:

A curious arbitrary rule affects one class of stratagems by forbidding certain permitted means of deception from the moment at which they cease to deceive. It is perfectly legitimate to use the distinctive emblems of an enemy in order to escape from him or to draw his forces into action; but it is held that soldiers clothed in the uniforms of their enemy must put on a conspicuous mark by which they can be recognized before attacking, and that a vessel using the enemy's flag must hoist its own flag before firing with shot or shell. The rule, disobedience to which is considered to entail grave dishonor, has been based on the statement that "in actual battle, enemies are bound to combat loyally and are not free to insure victory by putting on a mask of friendship." In war upon land victory might be so insured, and the rule is consequently sensible; but at sea, and the prohibition is spoken of generally with reference to maritime war, the mask of friendship no longer misleads when

once fighting begins, and it is not easy to see why it is more disloyal to wear a disguise when it is obviously useless, than when it serves its purpose. (Hall, *International Law*, 4th ed., p. 558.)

The use of "false colors" is evidently subject to much difference of opinion. (See Perels, *Seerecht ger Gegenwart*, p. 182.) No scheme of such use has been proposed which seems satisfactory, and it is difficult to see how honorable warfare can be conducted upon such a basis as is implied in the use of false colors. Undoubtedly, the rule prohibiting the use of false colors in war should be made with definite provisions in regard to legitimate ruses in maritime warfare.

It is, however, the opinion of the officers in conference upon this subject that the United States, without a similar provision against the use of false colors by other States, would be put at great disadvantage in time of war through the existence of this prohibition in the United States Naval War Code. The officers were therefore almost unanimously (one dissenting) of the opinion that this rule should be stricken from the code pending some international agreement upon the use of "false colors."

(c) Should all of the article following the word "forbidden" be stricken out?

If the article is retained, the words following "forbidden" in Article 7 are necessary as specifying at what time the national colors should be displayed, while during the period preceding there is no prohibition of the use of emblems that are not in the category of false colors, nor objection to sailing without a flag.

(d) Could a torpedo boat approach near an enemy ship under false colors and then raising true colors launch a torpedo against its opponent?

Under the present rules there would be no difference in the application of the rule to a torpedo or other vessel.

(e) One author says, "A ship may by employing false colors attempt to escape pursuit on the part of the enemy or perhaps even force a blockade; but it is absolutely forbidden by the regulations as well as by the usages of war to engage in hostilities under a false flag;

violation of this rule would be inexcusable even in the case of the most pressing necessity." How far is this position correct and in what respects is it incorrect?

This situation falls into three divisions, (1) the use of false colors to escape pursuit, (2) to force a blockade, and (3) to engage in hostilities.

(1) The use of false colors to evade pursuit has generally been held as allowable. It must be remembered, however, that this escape of an enemy vessel under false colors may add just so much to the fighting force of the enemy by so much delaying the realization of the end of war, viz, "the complete submission of the enemy at the earliest possible moment."

(2) The forcing of a blockade under false colors is generally regarded as an act of war and therefore forbidden. This seems to be the more reasonable opinion and the opinion which the fact sustains. The passing of a blockade by a public ship of a neutral is a courtesy allowed on the part of the blockading fleet. A neutral should not be put under suspicion because it is allowable for an enemy to use his flag. The consequences of this form of deceit so directly affect the neutral that such use of the flag should be forbidden.

(3) The remaining portion of the quotation is in accord with the best opinion and would be universally upheld.

It is the final opinion that Article 7 should be made the subject of international agreement or else should be repealed.

#### *Article 8.*

In the event of an enemy failing to observe the laws and usages of war, if the offender is beyond reach, resort may be had to reprisals, if such action should be considered a necessity; but due regard must always be had to the duties of humanity. Reprisals should not exceed in severity the offense committed, and must not be resorted to when the injury complained of has been repaired.

If the offender is within the power of the United States he can be punished, after due trial, by a properly constituted military or naval tribunal. Such offenders are liable to the punishments specified by the criminal law.



(a) In fourth line of Article 8, should the word "military" be inserted before the word "necessity?"

No, because in general cases where reprisals would be resorted to, such actions would not be because of military necessity, but rather for disciplinary purposes in order that the laws and usages of war might subsequently be observed, e. g., when uncivilized peoples do not observe these rules.

Action in the nature of reprisal against civilized enemies should be sanctioned by the general government and not undertaken by a subordinate officer unless a military necessity requires, as there are other means for the treatment of civilized enemies.

(b) A prominent authority says, "Reprisal is an act of vengeance pure and simple and should be wholly proscribed or at least reserved for wars undertaken against the uncivilized who have no notion of the law of nations and are accessible only to the feeling of fear." Is this a proper statement of the fact and should the whole of Article 8 be stricken out?

This is not a correct statement of fact as reprisals are now viewed, though reprisals may sometimes be acts of vengeance. This is the general continental point of view, however. The English and American point of view is that reprisals are undertaken to secure redress for injuries and usually are aimed against property or intercourse, rarely against persons.

Article 8 is however greatly restricted as seen in its provisions for reprisals:

1. For violation of "laws and usages of war," one specific cause.
2. By an "offender beyond reach."
3. In case of "necessity" only.
4. Within duties of "humanity."
5. Proportioned to offense.
6. Only in case of "injury not repaired."
7. Outside power of the United States.

Upon this debatable question of reprisals, an almost wholly obsolete form of action, probably it would have been better to refrain from utterance, but in view of the fact that the article has been issued, it may be well to leave it unchanged.

## SECTION II.—BELLIGERENTS.

*Article 9.*

In addition to the armed forces duly constituted for land warfare, the following are recognized as armed forces of the State:

(1) The officers and men of the Navy, Naval Reserve, Naval Militia, and their auxiliaries.

(2) The officers and men of all other armed vessels cruising under lawful authority.

In Article 9 in which the armed forces of a state are enumerated, should other classes of persons be named; if so, what classes and why?

It has been proposed to so amend Article 9 that it shall read "In addition to the armed forces duly constituted for land and naval warfare, the following are recognized as armed forces of the state," and then to omit the word "Navy" from the following clause.

If this is done, it makes the words "land" and "naval" coordinate and respectively coinclusive and coexclusive. This evidently is not the intention of the article at this point, but rather it is the intention to make an enumeration of the forces for naval warfare while mentioning only in general terms the land forces with the statement that they together "are recognized as armed forces of the state."

In other words should the word "Navy" be omitted in clause (1) and the word "naval" be inserted in the introductory sentence, the word "naval" as then used would apply to the regular Navy in the technical sense only and all other branches would be mentioned under (1) and (2). Consequently, the coordinate word "land" would cover the Regular Army, so called, only. This would not be a desirable limitation as it would make necessary an enlargement of the Article 9 so as to enumerate the armed land forces not in the category of the Regular Army, which is not necessary and is even undesirable in the code.

The words "In addition to" in the first line of Article 9 may, however, be unfortunate as implying some disparity in the two branches of the armed service. Should

the word "with" be substituted for the words "In addition to," this possible objection is removed. This introduces the idea of parity and coordination of the two branches.

It was held by the officers of the Conference that Article 9 is not essential to the code and could be left out altogether without injury to the code.

#### *Article 10.*

In case of capture, the personnel of the armed forces or armed vessels of the enemy, whether combatants or noncombatants, are entitled to receive the humane treatment due to prisoners of war.

The personnel of all public unarmed vessels of the enemy, either owned or in his service as auxiliaries, are liable, upon capture, to detention as prisoners of war.

The personnel of merchant vessels of an enemy who, in self-defense and in protection of the vessel placed in their charge, resist an attack, are entitled, if captured, to the status of prisoners of war.

(a) Should not Article 10 read: "In case of capture, the personnel of armed vessels of the enemy, whether combatants or noncombatants, become prisoners of war and are entitled to receive the humane treatment due to such prisoners?"

The question has been raised in regard to this article as to whether the "personnel" mentioned in the three clauses are upon different relationships in view of the different wording of closing clauses of each sentence.

One group is "entitled to receive," etc., one group is "liable to detention," etc., one group is "entitled to the status," etc. There would probably be no question that members of the second group would not merely be liable to be detained as prisoners of war, but would be liable to any other treatment allowable for prisoners of war.

Therefore the wording should be so changed as to make all the clauses correspond, as when captured, those of each class become prisoners of war, and are entitled to the treatment due such prisoners. This treatment is very definitely outlined in The Hague Convention and is well understood.

In the first line of Article 10 the words "the personnel of the armed forces" occur. This clause should also be changed or omitted, as "the personnel" by Article 9 constitutes the "armed forces" and it is not clear what is meant when the term is used here; indeed it can not add anything when taken in connection with Article 9.

In view of these points raised on Article 10, the wording would be more clearly and properly made as follows:

"In case of capture the following become prisoners of war and are entitled to the humane treatment due to such prisoners:

"(1) The armed forces duly constituted for land warfare.

"(2) The personnel of duly authorized armed vessels of the enemy whether combatants or noncombatants.

"(3) The personnel of all public or private unarmed vessels engaged in the service of the enemy.

"(4) The personnel of private vessels of an enemy who, for defense or in protection of a vessel placed in their charge, resist attack."

(b) What should be the treatment of newspaper correspondents found on board a captured enemy vessel? Would a foreign naval attaché be entitled to special consideration, and how should he be treated if similarly found?

(1) Newspaper correspondents found on board a captured enemy vessel are (a) there at their own risk, (b) supposed to refrain from participation in the war, (c) liable to be treated as the exigencies of war require, (d) liable to be detained or sent away from the scene of action, or (e) liable to be treated as prisoners of war. "Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying." (Hague Convention, Laws and Customs of War on Land, Article 13.)

(2) A foreign naval attaché is entitled even in time of war to special consideration. He can not demand treatment which would interfere with the course of the war.

He should be treated with the fullest courtesy as a representative of a friendly power, by chance within the jurisdiction of the United States. He would not become a prisoner of war unless he participated in hostilities. He may, however, be denied the privilege of sojourn within the military lines, or be detained, if military necessity requires. He should be given the widest liberty consistent with military necessity. Pillet gives quite fully the status of a military attaché as follows:

On voit aussi assez fréquemment des officiers au service d'une puissance neutre se faire autoriser à suivre les vicissitudes d'une campagne dans l'armée de l'un des belligérants. Il arrive même que des officiers ayant un caractère diplomatique, des attachés militaires, occupent ce poste d'observation. Comme officiers, la situation de ces spectateurs de la guerre n'est pas différente de celle des correspondants de journaux. Ils sont soumis aux mêmes obligations. Ils doivent de plus s'abstenir avec soin de toute participation aux hostilités, car elle aurait pour conséquence de leur faire perdre le bénéfice de leur qualité d'étrangers neutres.

S'ils ont en outre la qualité d'attachés militaires, le régime de droit commun ne pourra plus être le leur. Leur caractère diplomatique leur assure une entière indépendance, ils ne peuvent donc pas être retenus comme prisonniers, même pour un temps fort court. Leur correspondance ne saurait non plus être soumise à aucun contrôle.

Le général ennemi entre les mains duquel ils sont tombés ne possède à leur égard qu'un seul droit, celui de leur interdire tout séjour dans les lignes de son armée. Encore ne doit-il pas, dans l'exercice de ce droit, se départir de la courtoisie toujours en usage à l'égard des personnes investies d'un caractère diplomatique. (Pillet, *Les Lois Actuelles de la Guerre*, 2d ed., p. 196, sec. 133.)

(c) Should the last sentence in Article 10 read "The personnel of private vessels of an enemy who for defense or in protection of a vessel placed in their charge, resist an attack, are entitled, if captured, to the status of prisoners of war?"

This question raised above implies that this article should be modified to include those who, for example, take up arms for the defense of a town or port from attack by launching boats and engaging in its defense. This brings such defenders into a class parallel to the levies en masse in land warfare. They should therefore be treated as lawful belligerents if they respect the customs and laws of war.

The word "merchant" should be changed to "private," in order that such status may not be limited to a single class of "private" vessels, but may extend to all.

The last sentence in Article 10 should therefore read: "The personnel of private vessels of an enemy who, for defense or in protection of a vessel placed in their charge, resist an attack, are entitled, if captured, to the status of prisoners of war."

#### *Article 11.*

The personnel of a merchant vessel of an enemy captured as a prize can be held, at the discretion of the captor, as witnesses, or as prisoners of war when by training or enrollment they are immediately available for the naval service of the enemy, or they may be released from detention or confinement. They are entitled to their personal effects and to such individual property, not contraband of war, as is not held as part of the vessel, its equipment, or as money, plate, or cargo contained therein.

All passengers not in the service of the enemy, and all women and children on board such vessels should be released and landed at a convenient port, at the first opportunity.

Any person in the naval service of the United States who pillages or maltreats, in any manner, any person found on board a merchant vessel captured as a prize, shall be severely punished.

(a) One authority says of Article 11: "I have always objected to the idea that noncombatants at sea can be held as prisoners on the far-fetched theory that, being able seamen, if released they might be enlisted, trained, armed, and so become combatants. The fact remains that they have not been enlisted, that they are noncombatants, that therefore they should not be held as prisoners." Should the words, "or as prisoners," etc., to the end of the sentence be stricken out?

The question is whether in the first sentence of Article 11 the words following "as witnesses" shall be omitted. The general rule in regard to capture is that any person whom a belligerent may kill as an enemy becomes on surrender or capture a prisoner of war. This rule is modified by the further qualification that

certain persons who, by special characteristics, are of unusual importance or usefulness to the enemy, while not combatants in the technical sense are, nevertheless, liable to capture and detention as prisoners of war. Such persons are certain officials of the enemy state, certain persons rendering services not directly hostile, but yet of marked service to the enemy as, e. g., contractors, machinists, etc. Also persons who by special training may easily become dangerous enemies. Under this class may come the personnel of private vessels. The rule generally accepted is that sailors on all merchantmen are liable to be treated as prisoners of war.

Article 11 qualifies this general permission by allowing detention as prisoners of war "when by training or enrollment they are immediately available for the naval service of the enemy."

Authorities are very generally agreed upon this point. (Perels, *Seerecht der Gegenwart*, p. 190 f.; Pillet, *Les Lois Actuelles de la Guerre*, p. 152; Hall, *International Law*, p. 421; Rivier, *Principes du Droit des Gens* II, p. 346.) Hall briefly states his conclusion: "Finally, sailors on board enemy's trading vessels become prisoners because of their fitness for immediate use on ships of war." The *Naval War College Manual of International Law* states: "Officers and seamen of merchant vessels of the enemy may, according to usage, be detained as prisoners of war upon the ground that they can be immediately employed on ships of war." (p. 86, 2d ed.)

The first clause of Article 11 should stand as printed in the code, except as noted in (b) below.

(b) Should the word "private" be substituted for the word "merchant" in the first line of Article 11?

The word "merchant," while possibly covering a large portion of the vessels liable to capture, is not sufficiently broad to cover certain vessels not engaged in trade, which are and must be liable to capture and whose personnel may be equally dangerous if not retained. The word "private" as covering the vessels other than "public" should be substituted.

(c) How should the last two lines of Article 11 read?

The word "merchant" may be omitted, making the last clause read, "Any person in the naval service of the United States who pillages or maltreats, in any manner, any person found on board a vessel captured as a prize, shall be severely punished," if this last sentence is to be retained. It would be better, however, to make No. 17 of the "Articles for the Government of the Navy" and this last sentence of Article 11 of the Naval War Code to correspond by substituting one for the other or by revising both. No. 17 of the "Articles for the Government of the Navy" reads: "If any person in the Navy strips off the clothes of, or pillages, or in any manner maltreats, any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge." The sentence as it stands in the code does not prescribe how the punishment shall be determined.

*Article 12.*

The United States of America acknowledge and protect, in hostile countries occupied by their forces, religion and morality; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

(a) Should not the words, "private property" be inserted before the word "religion" in line 3 of Article 12?

The words "private property" should be inserted in Article 12 because Article XLVI of The Hague Convention provides that in case of hostile occupation "Family honor and rights, individual lives and private property as well as religious convictions and liberty must be respected."

This rule is immediately binding upon the naval force of the United States when constituting the hostile occupying force. Such force would then come without question under the rules of war on land.

(b) Should not the whole article be rewritten and amplified in view of The Hague Convention provisions in regard to occupation of hostile territory? If so, suggest the wording of the article and give reasons therefor.



It would be better in this case to substitute Article XLVI of The Hague Convention with respect to the laws and customs of war on land in place of Article 12 of the Naval War Code. Naval forces thus occupying hostile countries, by the simple fact of occupation become amenable to the rules of The Hague Convention. This Article XLVI with an introductory clause would read: In hostile countries occupied by forces of the United States of America, "Family honor and rights, individual lives and private property as well as religious convictions and liberty, must be respected." There are also other Hague Convention articles that should be inserted here. (See Section III.—On Military Authority over Hostile Territory, p. 155.)

### SECTION III.—BELLIGERENT AND NEUTRAL VESSELS.

#### *Article 13.*

All public vessels of the enemy are subject to capture, except those engaged in purely charitable or scientific pursuits, in voyages of discovery, or as hospital ships under the regulations hereinafter mentioned.

Cartel and other vessels of the enemy, furnished with a proper safe-conduct, are exempt from capture unless engaged in trade or belligerent operations.

(a) Would a vessel flying an enemy flag and carrying supplies to a neutral state where a famine exists be liable to capture and under what circumstances?

"A vessel flying an enemy flag and carrying supplies to a neutral state where a famine exists" might not be liable to capture if the vessel were public and the supplies were of a charitable nature destined for the relief of the famine.

Such a use of supplies could not directly or indirectly aid the enemy, but rather by the amount of the supplies lessen the enemy's resources. Of course, if the supplies were destined for the neutral country simply because a higher price could be secured on account of existence of the famine, the vessel and supplies as engaged in a commercial undertaking would be liable to capture.

The officer must judge, and in case of doubt should send the vessel into a port of his own state.

If the vessel be a private vessel of the enemy it is subject to capture under Article 14 of the Naval War Code. In time of war other arrangements must be made for the transportation of such supplies, e. g., by neutral vessels, by enemy vessel under pass previously obtained, etc.

(b) Should a vessel engaged in making deep-sea soundings be exempt from capture as engaged in scientific pursuits?

Vessels engaged in deep-sea soundings might not be liable to capture because engaged in scientific pursuits, but from the nature of the vessel it could be directly utilized for hostilities, e. g., the vessel could be used for grappling cables, or for cable laying, etc.

The officer must judge, but such a vessel doubtless would be sent into port without exception, or if exception were made it would be only in the rarest instances.

(c) Are private vessels "engaged in purely charitable or scientific pursuits, in voyages of discovery" liable to capture? Why?

Private vessels "engaged in purely charitable or scientific pursuits, in voyages of discovery" are liable to capture. While such vessels may in no way contribute toward strengthening the enemy, but rather divert a certain amount from his military resources, yet the difficulty of responsible control is so great that these vessels should be exempt only by grace of the commander in the immediate region, not by general rule.

(d) How should vessels engaged in religious and missionary work be treated?

Vessels engaged in purely religious and missionary work would be exempt under this section as engaged in charitable pursuits provided they are public vessels. Such cases, however, would be exceedingly rare. Private vessels thus engaged should be left as in the prior case (c) to the discretion of the commander. In all such cases, the ranking officer in the region acts on his own responsibility and should accordingly guard against possible injury from such vessels. He has absolute right to forbid the vessels to engage in religious and

missionary service during the continuance of hostilities, or even to capture these enemy vessels.

(e) How should a boat belonging exclusively to the light-house service be treated?

Boats belonging exclusively to the light-house service should in general be liable to the penalties of unarmed vessels engaged in the enemy's service. No exemption should be made by rule, as the service is, or may be, made of great military importance.

An exception was formally made in time of war in the Prize Law of Japan in 1894, when exemption from capture was extended to "boats belonging to light-houses." The nature of the light-house service in China at this time may have prompted this extension.<sup>1</sup>

#### *Article 14.*

All merchant vessels of the enemy, except coast fishing vessels innocently employed, are subject to capture, unless exempt by treaty stipulations.

In case of military or other necessity, merchant vessels of an enemy may be destroyed, or they may be retained for the service of the Government. Whenever captured vessels, arms, munitions of war, or other material are destroyed or taken for the use of the United States before coming into the custody of a prize court, they shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained; and the survey, appraisal, and inventory shall be sent to the prize court where proceedings are to be held.

(a) Should the word "private" be inserted in the place of the word "merchant" in both instances in Article 14?

The word "private" should be inserted in place of "merchant" in both instances in Article 14, for reasons already given under Article 11 (b).

(b) What should be the treatment of vessels engaged in deep-sea fisheries? Why?

Whale, seal, cod, or other fish not taken to market in natural form, but salted or otherwise changed, are lines of fisheries which render vessels so engaged liable to

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<sup>1</sup> Takahashi, *Cases an International Law, Chino-Japanese*, p. 179.

capture because such vessels are primarily engaged in commercial ventures, and the shore population is not immediately dependent upon them. This position is fully discussed in the case of the *Paquete Habana* (175 U. S., 677), with the following conclusions:

The review of the precedents and authorities on the subject appears to us abundantly to demonstrate that at the present day, by the general consent of the civilized nations of the world, and independently of any express treaty or other public act, it is an established rule of international law, founded on considerations of humanity to a poor and industrious order of men, and of the mutual convenience of belligerent states, that coast-fishing vessels, with their implements and supplies, cargoes and crews, unarmed and honestly pursuing their peaceful calling of catching and bringing in fresh fish, are exempt from capture as prize of war.

The exemption, of course, does not apply to coast fishermen or their vessels if employed for a warlike purpose, or in any such way as to give aid or information to the enemy; nor when military or naval operations create a necessity to which all private interests must give way.

Nor has the exemption been extended to ships or vessels employed on the high sea in taking whales or seals or cod or other fish which are not brought fresh to market, but are salted or otherwise cured and made a regular article of commerce.

(c) Should the words "or other" in line 5 of Article 14 be stricken out? Why?

The words "or other" should not be stricken out. The action following could be justified not only on the ground of military necessity, but also on other grounds, as in case of dangerous epidemic on a captured ship, etc.

#### *Article 15.*

Merchant vessels of the enemy that have sailed from a port within the jurisdiction of the United States, prior to the declaration of war, shall be allowed to proceed to their destination, unless they are engaged in carrying contraband of war or are in the military service of the enemy.

Merchant vessels of the enemy, in ports within the jurisdiction of the United States at the outbreak of war, shall be allowed thirty days after war has begun to load their cargoes and depart, and shall thereafter be permitted to proceed to their destination, unless they are engaged in carrying contraband of war or are in the military service of the enemy.

Merchant vessels of the enemy, which shall have sailed from any foreign port for any port within the jurisdiction of the United States before the declaration of war, shall be permitted to enter and discharge their cargo and thereafter to proceed to any port not blockaded.

(For the discussion and final opinion of the Conference upon Article 15 as a whole, see page 57 and page 63. It was as set forth in the form of an amended article of the code as follows:

“In absence of treaty governing the case, the treatment to be accorded private vessels of an enemy sailing to or from a port of the United States prior to the beginning of a war, or sojourning in a port of the United States at the beginning of a war will be determined by special instructions from the Navy Department.”)

(a) Should the word “private” be inserted for the word “merchant” in all instances in Article 15?

The word “private” should be inserted in the place of the word “merchant” in line 1, of Article 15. In other cases the word “merchant” may remain. There should be some provisions in the code for the sojourn, etc., of private vessels other than merchant vessels.

(b) Is not the first paragraph of Article 15 too liberal in its provisions?

The first paragraph of Article 15 is more liberal than has been admitted generally in earlier practice and from the point of view of many well qualified to give an opinion is too liberal, even considering the fact that the United States has uniformly been a leader in favoring the freedom of commerce. (See Questions on Article 15, page 57 ff.)

(c) How should the words, “war has begun,” line 9, of Article 15, be interpreted?

The words “war has begun” must be interpreted, in case a declaration is issued, as from the date of the declaration, and in case of no declaration, as from the first outbreak of hostilities.

(d) Should a vessel of the enemy under the rule of the last paragraph of Article 15 be allowed to enter and discharge its cargo at a port for which it had regularly sailed before the declaration of war, even though that

port is blockaded, and thence "proceed to any port not blockaded?"

I. This case supposes that a port within the jurisdiction of the United States before the declaration of war has passed into the jurisdiction of the enemy and is blockaded by the United States, and that a merchant vessel of the enemy sailed for the port before the declaration of war.

II. Or, again, it is assumed that this rule allows free trade with the territory which has passed from the United States jurisdiction into the hands of the enemy, provided the merchant vessel of the enemy shall have sailed from the foreign port before the declaration of war.

III. Or, again, would this rule not apply to ports within the jurisdiction of the enemy at the time of sailing before the declaration of war but within the jurisdiction of the United States at the time of arrival of the vessel?

While the rule as it stands possibly might provide for such a case or such cases, manifestly such is not the intent of the rule.

The rule as it should read would provide for that class of enemy vessels which before the declaration sail for ports within the jurisdiction of the United States. The clause should therefore read: "Merchant vessels of the enemy, which before the declaration of war shall have sailed from any foreign port for any port within the jurisdiction of the United States." In regard to the last clause of the last paragraph, however, a question may be raised. This clause permits the vessel to proceed to any port not blockaded. The wording would naturally prohibit departure to a port of the United States blockaded by the enemy as well as to ports of the enemy blockaded by the United States forces. This requirement may not always be advisable. Further, it allows the departure to certain other ports to which it might be advisable to prohibit sailing either from the nature of the port or from the nature of the service rendered by the vessel.

This clause seems too liberal and it would be advisable to retain the naming of the port of destination within the power of the United States, as the United States has permitted the entrance and departure of the vessel. The clause may therefore better read "thereafter to proceed to any port which the United States shall permit;" also in second line from end change "permitted" to "allowed."

The aim of this change is to retain for the United States fuller jurisdiction of enemy vessels in port during war, while not depriving them of reasonable freedom.

(e) Should this article be rewritten? If so, how should it read?

#### QUESTIONS ON ARTICLE 15.

The first question is raised in regard to the vessels that are known as auxiliary or volunteer navy. Should these while still engaged in mercantile transactions be treated as private vessels under Article 15 or shall they be regarded as public vessels? There is a considerable difference of opinion in regard to the character of these vessels. Some regard such vessels within the prohibited class under the Declaration of Paris; and others regard them as legitimate and necessary under the present system.

Hall speaks of the volunteer navy as follows: "The sole real difference between privateers and a volunteer navy is then that the latter is under naval discipline, and it is not evident why privateers should not also be subjected to it. It can not be supposed that the Declaration of Paris was merely intended to put down the use of privateers governed by the precise regulations customary up to that time. Privateering was abandoned because it was thought that no armaments maintained at private cost, with the object of private gain, and often necessarily for a long time together beyond the reach of the regular naval forces of the state, could be kept under proper control. Whether this belief was well founded or not is another matter. If the organization intended to be given to the Prussian volunteer navy did not possess sufficient safeguards, some

analogous organization no doubt can be procured which would provide them. If so, there could be no objection on moral grounds to its use; but unless a volunteer navy were brought into closer connection with the state than seems to have been the case in the Prussian project it would be difficult to show as a mere question of theory that its establishment did not constitute an evasion of the Declaration of Paris.

“The incorporation of a part of the merchant marine of a country in its regular navy is, of course, to be distinguished from such a measure as that above discussed. A marked instance of incorporation is supplied by the Russian volunteer fleet. The vessels are built at private cost, and in time of peace they carry the mercantile flag of their country; but their captain and at least one other officer hold commissions from their sovereign, they are under naval discipline, and they appear to be employed solely in public services, such as the conveyance of convicts to the Russian possessions on the Pacific. Taking the circumstances as a whole, it is difficult to regard the use of the mercantile flag as serious; they are not merely vessels which in the event of war can be instantaneously converted into public vessels of the state, they are properly to be considered as already belonging to the imperial navy. The position of vessels belonging to the great French mail lines is different. They are commanded by a commissioned officer of the navy, but so long as peace lasts their employment is genuinely private and commercial; means is simply provided by which they can be placed under naval discipline and turned into vessels of war so soon as an emergency arises. They are not now incorporated in the French navy, but incorporation would take place on the outbreak of hostilities.” (International Law, 4th ed., p. 549.)

Of volunteer and auxiliary navies briefly it may be said: “The relationship of private vessels to the state in time of war, which had been settled by the Declaration of Paris in 1856, was again made an issue by the act of Prussia in the Franco-German war. By a decree of July 24, 1870, the owners of vessels were invited to



equip them for war and place them under the naval discipline. The officers and crews were to be furnished by the owners of the vessels, to wear naval uniform, to sail under the North German flag, to take oath to the articles of war, and to receive certain premiums for capture or destruction of the enemy's ships. The French authorities complained to the British that this was privateering in disguise and a violation of the Declaration of Paris. The law officers of the crown declared that there was 'a substantial difference' between such a volunteer navy and a system of privateering, and that the action of Prussia was not contrary to the Declaration of Paris. With this position some authorities agree, while others dissent. The weight of the act as a precedent is less on account of the fact that no ships of this navy ever put to sea. Similarly, the plan of Greece for a volunteer navy in 1897 was never put into operation.

"Russia, in view of possible hostilities with England in 1877-1878, accepted the offer of certain citizens to incorporate into the navy during the war vessels privately purchased and owned. Such vessels are still numbered in the 'volunteer fleet,' and, though privately owned and managed, are, since 1886, under the Admiralty. These vessels may easily be converted into cruisers, and are, so far as possible, favored with government service. There seems to be little question as to the propriety of such a relationship between the state and the vessels which may be used in war.

"Still less open to objection is the plan adopted by Great Britain in 1887 and by the United States in 1892, by which these governments, through agreements with certain of their great steamship lines, could hire or purchase at a fixed price certain specified vessels for use in case of war. The construction of such vessels is subject to government approval, and certain subsidies are granted to these companies. In time of war both officers and men must belong to the public forces. The plans of Russia, Great Britain, and the United States have met with little criticism." (Wilson and Tucker, *International Law*, 2d ed., p. 255.)

Lawrence declares his opinion as follows: "The legality of a volunteer navy must depend, like the legality of a volunteer army, upon the closeness of its connection with the state, and the securities it affords for a due observance of the laws of war." (Principles of International Law, p. 435.)

Article 9 of this code (which earlier was voted to be stricken out as unessential) certainly recognizes under the term "auxiliaries," the officers and men of such vessels as in the category of armed forces when commissioned and perhaps at all times of war.

The status of a private vessel which has assumed certain public obligations is in some respects shown in the decision in regard to the *Panama*, rendered by the United States Supreme Court on February 26, 1900. The résumé of the case is as follows:

The *Panama* was a steamship of 1,432 tons register, carrying a crew of seventy-one men, all told, owned by a Spanish corporation, sailing under the Spanish flag, having a commission as a royal mail ship from the Government of Spain, and plying from and to New York and Havana and various Mexican ports, with general cargoes, passengers, and mails. At the time of her capture, she was on a voyage from New York to Havana, and had on board two breech-loading Hontoria guns of 9 centimeters bore, one mounted on each side of the ship, one Maxim rapid-firing gun on the bridge, twenty Remington rifles, and ten Mauser rifles, with ammunition for all the guns and rifles, and thirty or forty cutlasses. The guns had been put on board three years before, and the small arms and ammunition had been on board a year or more. Her whole armament had been put on board by the company in compliance with its mail contract with the Spanish Government (made more than eleven years before, and still in force), which specifically required every mail steamship of the company to "take on board, for her own defense," such an armament, with the exception of the Maxim gun and the Mauser rifles.

That contract contains many provisions looking to the use of the company's steamships by the Spanish Government as vessels of war. Among other things, it requires that each vessel shall have the capacity to carry 500 enlisted men; that that government, upon inspection of her plans as prepared for commercial and postal purposes, may order her deck and sides to be strengthened so as to support additional artillery; and that, in case of the suspension of the mail service by naval war, or by hostilities in any of the seas or ports visited by the company's vessels, the government may take possession of them with their equipment and supplies, at a valuation

to be made by a commission; and shall at the termination of the war return them to the company, paying 5 per cent on the valuation while it has them in its service, as well as an indemnity for any diminution in their value.

The *Panama* was not a neutral vessel; but she was enemy property, and as such, even if she carried no arms (either as part of her equipment, or as cargo), would be liable to capture, unless protected by the President's proclamation.

It may be assumed that a primary object of her armament, and in the time of peace, its only object, was for purposes of defense. But that armament was not of itself inconsiderable, as appears, not only from the undisputed facts of the case, but from the action of the district court, upon the application of the commodore commanding at the port where the court was held, and on the recommendation of the prize commissioners, directing her arms and ammunition to be delivered to the commodore for the use of the Navy Department. And the contract of her owner with the Spanish Government, pursuant to which the armament had been put on board, expressly provided that, in case of war, that government might take possession of the vessel with her equipment, increase her armament, and use her as a war vessel; and, in these and other provisions, evidently contemplated her use for hostile purposes in time of war.

She was, then, enemy property, bound for an enemy port, carrying an armament susceptible of use for hostile purposes, and herself liable, upon arrival in that port, to be appropriated by the enemy to such purposes.

The intent of the fourth clause of the President's proclamation was to exempt for a time from capture peaceful commercial vessels; not to assist the enemy in obtaining weapons of war. This clause exempts "Spanish merchant vessels" only, and expressly declares that it shall not apply to "Spanish vessels having on board any officer in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage), or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government."

Upon full consideration of this case, this court is of the opinion that the proclamation, expressly declaring that the exemption shall not apply to any Spanish vessel having on board any article prohibited or contraband of war, or a single military or naval officer, or even a dispatch, of the enemy, can not reasonably be construed as including, in the description of "Spanish merchant vessels" which are to be temporarily exempt from capture, a Spanish vessel owned by a subject of the enemy; having an armament fit for hostile use; intended, in the event of war, to be used as a war vessel; destined to a port of the enemy; and liable, on arriving there, to be taken possession of by the enemy, and employed as an auxiliary cruiser of the enemy's navy, in the war with this country.

The result is, that the *Panama* was lawfully captured and condemned, and that the decree of the district court must be affirmed. (176 U. S., 547.)

Such vessels are certainly potentially war vessels and are certainly designed and liable to conversion for use in war. In no case are such vessels purely private vessels because the Government has a prior right to convert them to its use under terms of their registration or by virtue of specific contract as the case may be. (27 Stat. L., act May 10, 1892.)

This being the case it would be for the Government to enunciate its policy at the time in regard to such vessels and to determine whether such vessels were actually "in the military service of the enemy" or not. The status of such auxiliary vessels being at present uncertain, it would be advisable to allow the wording of the code in Article 9 to stand as it is sufficiently broad to permit seizure should policy or act of the vessel require seizure while not throwing the responsibility upon the naval officer to decide in regard to a class of vessels whose status is uncertain. If such vessels are clearly in the military service of the enemy, they are not by Article 15 entitled to exemption. In any case the status of auxiliary vessels should be made clear.

Again, while it can not be said that the provisions of the first clause of Article 15 are absolutely established in international law, they are, however, so well established that the privilege of entry and departure of *bona fide* private vessels would be allowed by all nations. It was so allowed in the Crimean war, 1854; in the Franco-Prussian war of 1870, and Russo-Turkish war of 1877, and in the Spanish-American war of 1898 by the United States. It is proper that some provision upon this matter be made known to the officers of the Navy either in the code or elsewhere.

In regard to the "thirty days" allowance mentioned in the second clause of Article 15, it may be said that both longer and shorter times have been allowed, that it is now general to allow some time, and that probably the naval department of the Government is not competent to fix the length of time. Therefore it would be well to word the clause so as to read: "Merchant vessels of the enemy in ports within the jurisdiction of the United

States at outbreak of war when allowed a specified time after war has begun to load their cargoes and depart, shall thereafter be permitted to proceed to their destination, unless they are engaged in carrying contraband of war or are in the military service of the enemy." Thus the Government is not committed beyond what international law sanctions though taking a reasonably liberal position.

It should be observed that this whole Article 15 gives to commerce between the enemy and the United States a measure of exemption that is not given to the commerce between the enemy and a neutral. This is in one way illogical yet it is desirable to give the widest exemption to commerce as the destruction of commerce does not bring any commensurate military advantage.

#### OPINION OF COMMITTEE OF THE CONFERENCE.

In view of the objections raised upon various grounds to Article 15, it was voted by the Conference that a committee consider what changes should be made therein. This committee, after debating the merits of positive positions, decided that in view of disagreement among authorities, and in practice, and pending an international convention, Article 15 should read: "In absence of treaty governing the case, the treatment to be accorded private vessels of an enemy sailing prior to the beginning of a war, to or from a port of the United States or sojourning in a port of the United States at the beginning of a war, will be determined by special instructions from the Navy Department."

This was the action taken by the Navy Department in publishing General Order No. 492 on June 20, 1898. This order, "prepared by the Department of State" and "published for the information and guidance of the naval service," contains several clauses not so liberal toward neutrals as those in Article 15 of the Naval War Code, though very liberal in their provisions. This order states in section 17 that merchant vessels of the enemy "are good prize; and may be seized anywhere, except in neutral waters." To this rule, however, the

President's proclamation of April 26, 1898, in order to provide against undue hardships in the beginning of the war, made the following exceptions:

4. Spanish merchant vessels in any ports or places within the United States, shall be allowed till May 21, 1898, inclusive, for loading their cargoes and departing from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage, if, on examination of their papers, it shall appear that their cargoes were taken on board before the expiration of the above term: *Provided*, That nothing herein contained shall apply to Spanish vessels having on board any officer in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage), or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government.

5. Any Spanish merchant vessel which, prior to April 21, 1898, shall have sailed from any foreign port bound for any port or place in the United States, shall be permitted to enter such port or place, and to discharge her cargo, and afterwards forthwith to depart without molestation; and any such vessel, if met at sea by any United States ship, shall be permitted to continue her voyage to any port not blockaded.

The following clauses of General Order 492 of the Navy Department contain the material applying to this subject:

3. Neutral vessels are entitled to notification of a blockade before they can be made prize for its attempted violation. The character of this notification is not material. It may be actual, as by a vessel of the blockading force, or constructive, as by a proclamation of the government maintaining the blockade, or by common notoriety. If a neutral vessel can be shown to have had notice of the blockade in any way, she is good prize and should be sent in for adjudication; but, should formal notice not have been given, the rule of constructive knowledge arising from notoriety should be construed in a manner liberal to the neutral.

4. Vessels appearing before a blockaded port, having sailed without notification, are entitled to actual notice by a blockading vessel. They should be boarded by an officer, who should enter in the ship's log the fact of such notice, such entry to include the name of the blockading vessel giving notice, the extent of the blockade, the date and place, verified by his official signature. The vessel is then to be set free; and should she again attempt to enter the same or any other blockaded port as to which she has had notice she is good prize.

7. In accordance with the rule adopted by the United States in the existing war with Spain, neutral vessels found in port at the time of

the establishment of a blockade will, unless otherwise ordered by the United States, be allowed thirty days from the establishment of the blockade to load their cargoes and depart from such port.

*Article 16.*

Neutral vessels in the military or naval service of the enemy, or under the control of the enemy for military or naval purposes, are subject to capture or destruction.

What should be done in case a neutral vessel within neutral territory is found to be transmitting messages to the enemy by means of wireless telegraphy?

Article 16 covers the rule for neutral vessels within the field of belligerent action. The code does not cover the field of peaceful action which neutral waters are ever supposed to be.

In case a neutral vessel within neutral territory is found to be transmitting messages to the enemy by wireless telegraphy the vessel is guilty of unneutral service and is liable to the penalties consequent upon such service when within the field of belligerent action, but so long as she remains within neutral waters while the service is unchanged so far as the neutral vessel is concerned, no belligerent act may be performed against the neutral vessel in neutral territory. The act should be reported to the government in whose jurisdiction the vessel is with a request that the vessel be restrained and it should also be reported to the home government for diplomatic consideration.

It would be permissible to use any means to intercept the messages outside of neutral jurisdiction. The case is somewhat parallel to that of submarine telegraphy. The international law status of wireless telegraphy is as yet undefined. Doubtless agreements in regard to the use of this means of communication must be made.

*Article 17.*

Vessels of war of the United States may take shelter during war in a neutral port subject to the limitations that the authorities of the port may prescribe as to the number of belligerent vessels to be admitted into the port at any one time. This shelter, which is allowed

by comity of nations, may be availed of for the purpose of evading the enemy, from stress of weather, or to obtain supplies or repairs that the vessel needs to enable her to continue her voyage in safety and to reach the nearest port of her own country.

(a) Would it be a ground for protest if a neutral state prescribed other limitations than those in regard to "the number of belligerent vessels to be admitted into the port at any one time?"

It would be no ground for protest if a neutral prescribed other limitations than those in regard to "the number of belligerent vessels to be admitted into the port at any one time." The neutral port regulations are matters within neutral competence, as is shown by Article 18 and as is affirmed by all writers on international law.

(b) How should the words "to continue her voyage in safety" be interpreted? Do these words refer to the clause "to obtain supplies" in line 7 of Article 17?

"To continue her voyage in safety", must be interpreted with reference to the last clause of Article 18, which forbids increase in "armament military stores, or in the number of the crew of a vessel of war."

The wording is too free according to the generally accepted standards as "safety" may be made to apply to security from enemies as well as from the elements of nature. The generally admitted repairs and supplies are those necessary for the continuance of the voyage to the nearest home port with reference to the risks due to natural causes.

Further, the supplies are by the last clause of Article 18 limited to those not military in their nature. "To continue her voyage in safety" refers to one or both of the words "supplies" or "repairs" with the above-mentioned restrictions on the nature of the supplies.

#### *Article 18.*

Such vessel or vessels must conform to the regulations prescribed by the authorities of the neutral port with respect to the place of anchorage, the limitation of the stay of the vessel in port, and the time to elapse before



sailing in pursuit or after the departure of a vessel of the enemy.

No increase in the armament, military stores, or in the number of the crew of a vessel of war of the United States shall be attempted during the stay of such vessel in a neutral port.

Might it not often be necessary to violate the provisions of the last sentence of Article 18 in order to obtain supplies or repairs sufficient to enable a vessel "to continue her voyage in safety?"

The last sentence in Article 18 is in accord with the generally accepted opinion of the rule of correct action in a neutral port. The phrase "to continue her voyage in safety" should be interpreted as above stated with reference to safety from the dangers of the sea rather than dangers from enemies. The Netherlands issued the following during the war between the United States and Spain: "It is forbidden to supply arms or ammunition to the ships of war or privateers of the powers at war, as also to render them any assistance whatever in the increasing of their crews, arming, or equipment, and in general to voluntarily perform any act that might endanger the neutrality of the state."

#### *Article 19.*

A neutral vessel carrying the goods of an enemy is, with her cargo, exempt from capture, except when carrying contraband of war or endeavoring to evade a blockade.

Should the words "or guilty of unneutral service" be added after the word "blockade" in the last line of Article 19?

With the increase in the forms of service which neutral vessels may render, they should certainly have no more liberal treatment than mail steamers in Article 20, for mail steamers are or may be under a partial government control, and these are liable to detention for "violation of the laws of war with respect to contraband blockade, or unneutral service."

The words "or guilty of unneutral service" should certainly be added to Article 19.

*Article 20.*

A neutral vessel carrying hostile dispatches, when sailing as a dispatch vessel practically in the service of the enemy, is liable to seizure. Mail steamers under neutral flags carrying such dispatches in the regular and customary manner, either as a part of their mail in their mail bags, or separately as a matter of accommodation and without special arrangement or remuneration, are not liable to seizure and should not be detained, except upon clear grounds of suspicion of a violation of the laws of war with respect to contraband, blockade, or unneutral service, in which case the mail bags must be forwarded with seals unbroken.

(a) Would the transmission of hostile dispatches received by a neutral vessel on the high sea make that vessel liable to seizure; if so, for how long a time?

Dana, in note 228 to Wheaton's International Law, says:

Suppose a neutral vessel to transmit signals between two portions of a fleet engaged in hostile combined operations, and not in sight of each other. She is doubtless liable to condemnation. It is immaterial whether these squadrons are at sea or in ports of their own country or in neutral ports, or how far they are apart or how important the signals may be to the general results of the war, or whether the neutral transmits them directly or through a repeating neutral vessel. The nature of the communication establishes its final destination and it is immaterial how far the delinquent carries it on its way. The reason of the condemnation is the nature of the service in which the neutral is engaged.

The neutral vessel transmitting hostile dispatches is liable to seizure as engaged in unneutral service. Taylor says:

No overt act could be performed by a neutral in aid of a belligerent more clearly unlawful than the transmission of signals or the carrying of messages between two portions of a fleet engaged in concert in hostile operations, and not in sight of each other. It makes no difference whether such fleets or squadrons are in ports of their own country, in neutral ports, or on the high seas, or whether such signals are transmitted by the neutral directly or through a repeating neutral vessel. No matter whether such communications be verbal or written, important or unimportant to the general results of the war, as the criminality of the act depends alone upon the nature of the service in which the neutral is engaged. The same principle extends to signalling or bearing of messages between a

land force and a fleet, or to the laying of a cable to be used chiefly or exclusively for hostile purposes. (International Public Law, p. 754, sec. 670.)

Of the nature of such service Lawrence well says:

We are now in a position to distinguish clearly between the offense of carrying contraband and the offense of engaging in unneutral service. They are unlike in nature, unlike in proof, and unlike in penalty. To carry contraband is to engage in an ordinary trading transaction which is directed toward a belligerent community simply because a better market is likely to be found there than elsewhere. To perform unneutral service is to interfere in the struggle by doing in aid of a belligerent acts which are in themselves not mercantile, but warlike. In order that a cargo of contraband may be condemned as good prize, the captors must show that it was on the way to a belligerent destination. If without subterfuge it is bound to a neutral port, the voyage is innocent, whatever may be the nature of the goods. In the case of unneutral service the destination of the captured vessel is immaterial. The nature of her mission is the all-important point. She may be seized and confiscated when sailing between two neutral ports. The penalty for carrying contraband is the forfeiture of the forbidden goods, the ship being retained as prize of war only under special circumstances. The penalty for unneutral service is first and foremost the confiscation of the vessel, the goods on board being condemned when the owner is involved or when fraud and concealment have been resorted to.

Nothing but confusion can arise from attempting to treat together offenses so widely divergent as the two now under consideration. (Principles of International Law, p. 633.)

The liability to seizure attaches to the vessel in consequence of the act performed, not because of the possession of the dispatches (which in case of wireless telegraphic dispatches might be outside of the vessel almost immediately). The nature of the act is or may be more noxious than that of breaking a blockade or any other act for which liability attaches to the vessel till the completion of the voyage and return to the home port. Liability therefore to seizure attaches to the vessel guilty of the transmission of such dispatches till return to the home port.

(b) Under Article 20, would repetition by a neutral vessel of signals made by a belligerent vessel to a remote belligerent vessel make the neutral vessel liable to seizure, all the vessels being on the high sea?

Yes, as above under clause allowing seizure on ground of unneutral service.

(c) Should the Naval War Code contain an article upon unneutral service? If so, what should it cover and how should it read?

No. It is better to leave that to the progress of opinion as the range of action to be considered under unneutral service will continually change. Lawrence, after mentioning that—

A neutral ship is forbidden to—

- (1) Transmit certain kinds of signals or messages for a belligerent;
- (2) Carry certain kinds of dispatches for a belligerent;
- (3) Transport certain kinds of persons in the service of a belligerent;

says:

The most important and the most frequently performed unneutral services are arranged under the three heads we have just enumerated. But the classification is by no means exhaustive. There are other ways of giving unlawful aid to belligerents besides those we have been considering. The exigencies of warfare are so numerous and so changeful that no one can describe beforehand every possible mode in which a neutral ship may make herself into a transport in the service of one or other of the belligerents. The principle of the law is clear. It forbids anything approaching to an actual participation in the war. The application of the principle must be settled in each case as it arises. Among the acts which it assuredly covers we may mention transferring provisions, coals, or ammunition from one belligerent ship to another at sea, and showing the channel to a fleet advancing for a hostile attack. (Principles of International Law, pp. 625 and 629.)

(d) Should the code contain an article in regard to the transfer of vessels from a belligerent to a neutral flag in the time of war?

No. This is in the main a matter of domestic law and may change with the change of national policy, therefore the code should contain no provision in regard to such transfer. It would be advisable, however, that some more definite regulations on the matter of such transfer should be made by international agreement in so far as this transfer affects international relations. (See Duboc, *Le Droit de Visite*, Chap. IV.)

SECTION IV.—HOSPITAL SHIPS—THE SHIPWRECKED,  
SICK, AND WOUNDED.

*Article 21.*

Military hospital ships—that is to say, vessels constructed or fitted out by the belligerent States for the special and sole purpose of assisting the wounded, sick, or shipwrecked, and whose names have been communicated to the respective Powers at the opening or in the course of hostilities, and in any case before they are so employed, shall be respected, and are not liable to capture during the period of hostilities.

Such ships shall not be classed with war ships with respect to the matter of sojourn in a neutral port.

*Article 22.*

Hospital ships fitted out, in whole or in part, at the expense of private individuals or of officially recognized relief societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they are subject has given them an official commission and has notified the hostile Power of the names of such ships at the beginning or in the course of hostilities, and in any case before they are employed.

These ships should be furnished with a certificate, issued by the proper authorities, setting forth that they were under the control of such authorities during their equipment and at the time of their final departure.

*Article 23.*

The vessels mentioned in Articles 21 and 22 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

It is strictly forbidden to use these vessels for any military purpose.

These vessels must not in any way hamper the movements of the combatants.

During and immediately after engagements they act at their own risk and peril.

The belligerents have the right to control and visit such vessels; they may decline their cooperation, require them to withdraw, prescribe for them a fixed course, and place a commissioner on board; they may even detain them, if required by military necessity.

When practicable, the belligerents shall enter upon the log of hospital ships such orders as they may give them.

*Article 24.*

Military hospital ships shall be distinguished by being painted white outside, with a horizontal band of green about  $1\frac{1}{2}$  meters wide.

The ships designated in Article 22 shall be distinguished by being painted white outside, with a horizontal band of red about  $1\frac{1}{2}$  meters wide.

The boats of hospital ships, as well as small craft that may be devoted to hospital service, shall be distinguished by being painted in the same colors.

Hospital ships shall, in general, make themselves known by hoisting, with their national flag, the white flag with a red cross prescribed by the Geneva Convention.

*Article 25.*

Merchant vessels, yachts, or neutral vessels that happen to be in the vicinity of active maritime hostilities, may gather up the wounded, sick, or shipwrecked of the belligerents. Such vessels, after this service has been performed, shall report to the belligerent commander controlling the waters thereabouts, for future directions, and while accompanying a belligerent will be, in all cases, under his orders; and, if a neutral, be designated by the national flag of that belligerent carried at the foremasthead, with the red-cross flag flying immediately under it.

These vessels are subject to capture for any violation of neutrality that they may commit. Any attempt to carry off such wounded, sick, and shipwrecked, without permission, is a violation of neutrality. They are also subject, in general, to the provisions of Article 23.

*Article 26.*

The religious, medical, and hospital personnel of any vessel captured during hostilities shall be inviolable and not subject to be made prisoners of war. They shall be permitted, upon leaving the ship, to carry with them those articles and instruments of surgery which are their private property.

Such personnel shall continue to exercise their functions as long as may be necessary, whereupon they may withdraw when the commander in chief deems it possible to do so.

The belligerents shall insure to such personnel, when falling into their hands, the free exercise of their functions, the receipt of salaries, and entire freedom of movement, unless a military necessity prevents.

*Article 27.*

Sailors and soldiers, embarked when sick or wounded, shall be protected and cared for by the captors, no matter to what nation they may belong.

*Article 28.*

The shipwrecked, wounded, or sick of the enemy, who are captured, are considered prisoners of war. The captor must decide, according to circumstances, whether it is expedient to keep them or send them to a port of his own country, to a neutral port, or even to a port of the enemy. In the last case, the prisoners thus returned to their country can not serve again during the period of the war.

*Article 29.*

The shipwrecked, wounded, or sick who are landed at a neutral port with the consent of the local authorities, shall, unless there exist an agreement to the contrary between the neutral State and the belligerent States, agree that they will not again take part in the operations of war.

The expenses of hospital care and of internment shall be borne by the State to which such shipwrecked, wounded, or sick belong.

(a) Should there be inserted after Article 22 an article which is as follows: "Hospital ships, fitted out in whole or in part at the expense of private individuals or of officially recognized societies of neutral states, shall be respected and exempt from capture, provided the neutral power to whom they are subject has given them an official commission and has notified the belligerent powers of the names of such ships at the beginning or in the course of hostilities and in any case before they are employed?"

An article embodying the provisions of Article 3 of The Hague Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864, which is to the intent of the article as stated in situation 21 (a), should be inserted, as the article is binding upon the Navy of the United States in

accordance with the proclamation of November 1, 1901, by the President. This article is as follows:

ART. III. Hospital ships, equipped wholly or in part at the cost of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, if the neutral power to whom they belong has given them an official commission and notified their names to the belligerent powers at the commencement of or during hostilities, and in any case before they are employed.

This article should be made number 23.

In Article 22, after "societies," the words "of a belligerent state" should be inserted.

The numbering of the following articles, 23, 24, 25, 26, 27, 28 should be advanced one number.

The first line of present Article 23 (new 24) should read: "The vessels mentioned in Articles 21, 22, and 23," etc.

Article 24, line four, should read "in articles 22 and 23."

Article 25, last line, should read "24" in place of "23."

(b) Would the desire that the further movements of a vessel or vessels of war be secret be sufficient reason to justify a commander in requiring hospital ships to withdraw?

The desire for secrecy of movement would be sufficient reason to require the withdrawal of hospital ships under the fifth clause of present Article 23.

(c) Article VI of The Hague Convention is as follows:

Neutral merchantmen, yachts, or vessels having or taking on board sick, wounded, or shipwrecked of the belligerents, can not be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.

As the United States has adopted this rule, should the regulations prescribed in Article 25 be changed or stricken out? Consider whether, in view of the fact that the United States has adopted the above Article VI of The Hague Convention, which allows neutral vessels to take on board sick, etc., and to be exempt from capture for so doing, the second sentence of Article 25 of the Naval War Code can be enforced. Certain states have already objected to an attempt to compel a neutral vessel engaged in this service to fly a flag of a belligerent.



It is necessary to consider the course of discussion upon Article VI of The Hague Convention, which is set forth by Captain Mahan in his report to the United States Commission in July, 1899:

The general desirability of giving to hospital vessels the utmost immunity consistent with the vigorous prosecution of war was generally conceded and met, in fact, with no opposition; but it was justly remarked at the outset that measures must be taken to put under efficient control of the belligerents all hospital ships fitted out by private benevolence, or by neutrals, whether associations or individuals. It is evident that unless such control is explicitly affirmed, and unless the various cases that may arise, in which it may be needed, are, as far as possible, foreseen and provided for, incidents may well occur which will bring into inevitable discredit the whole system of neutral vessels, hospital or others, devoted to the benevolent assistance of the sufferers in war.

The first suggestion, offered almost immediately, was that the simplest method of avoiding such inconvenience would be for the said neutral vessels, being engaged in service identical with that of belligerent hospital vessels to which it was proposed to extend the utmost possible immunity, should frankly enter the belligerent service by hoisting the flag of the belligerent to which it offered its services. This being permitted by general consent, and for purposes purely humanitarian, would constitute no breach of neutrality, while the control of either belligerent, when in presence, could be exercised without raising those vexed questions of neutral rights which the experience of maritime warfare shows to be among the most difficult and delicate problems that belligerents have to encounter.

This proposition was supported by me as being the surest mode of avoiding difficulties easy to be foreseen, and which in my judgment are wholly unprovided for by the articles adopted by the Conference. The neutral ship is, by common consent, permitted to identify itself with the belligerent and his operations for certain laudable purposes; why not for the time assume the belligerent's flag? The reasoning of the opposition was that such vessels should be considered in the same light as national vessels, and that to require them to hoist a foreign flag would be derogatory (*porterait atteinte*) to the sovereignty of the State to which they belonged. This view prevailed. (Holls, Peace Conference at The Hague, p. 498.)

As The Hague rule reads, neutral vessels are not liable to capture for taking on board sick, wounded, or shipwrecked, but are liable to capture for any violation of neutrality. Nothing is specified in regard to the action of the neutral vessel after the time of taking on board the sick, etc., unless such vessel violates neutrality.

It can not be supposed, however, that such a vessel will be given greater freedom by the belligerent than is given to a vessel which a neutral, under Article III of The Hague Convention, fits out as a hospital ship. These neutral vessels are subject to the regulations of present Article 23, which gives to the belligerent the right of control. It is reasonable that as much authority be considered as resting in the belligerent in regard to neutral vessels not commissioned as hospital ships, but for the time being acting as such or as rescue ships.

It would be sufficient to give Article VI of The Hague Convention with the statement that such vessels are in general subject to the provisions of present Article 23. The more detailed specifications in regard to treatment would better be left to the time of the event. The reporting to the commander, etc., is liable to be confusing at a time of action. Article 25 should be worded to conform to The Hague Convention, Article VI. "Neutral merchantmen, yachts, or vessels having or taking on board sick, wounded, or shipwrecked of the belligerents can not be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed." To this should be added the last two clauses of present Article 23.

(d) Should the word "considered" in the second line of Article 28 be retained?

The word "considered" implies that while the state of those captured may be something other than prisoners of war, yet they are regarded by the United States as such.

The word should be stricken out. They *are* prisoners of war.

(e) Should Article 29 be retained?

Article 29 is in effect Article 10 of The Hague Convention, which was not adopted by the United States and not approved by several other nations. This Article 10 reads as follows:

The shipwrecked, wounded, or sick who shall be landed at a neutral port, with the consent of the local authorities, must, in the absence of a contrary arrangement between the neutral state and the belligerents, be guarded by the neutral state, so that they can not

again take part in the military operations. The expense of entertainment and detention shall be borne by the state to which the wounded, shipwrecked, or sick shall belong. (Holls, Peace Conference at The Hague, p. 127.)

As this appears as "excluded" in the Convention to which the United States is a party, it should not be made a part of the United States Naval War Code until there is international agreement upon its terms.

(f) Would it not be best to insert The Hague Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention in place of Section IV of the code?

As the United States has formally adopted the provisions of The Hague Convention bearing on Section IV, and as those provisions are therefore in effect for the officers of the United States Navy, it would seem better not to have two sets of rules upon the same subject, but rather to have actual rules with such supplementary statements as may seem essential. Therefore The Hague Rules as named should be inserted in place of Section IV.

(g) The provisions of the above-mentioned Hague Convention are binding only upon contracting powers. Would it not be better to thus limit the provisions of the code?

The provisions of the code should follow those of The Hague Convention.

## SECTION V.—THE EXERCISE OF THE RIGHT OF SEARCH.

### *Article 30.*

The exercise of the right of search during war shall be confined to properly commissioned and authorized vessels of war. Convoys of neutral merchant vessels, under escort of vessels of war of their own State, are exempt from the right of search upon proper assurances, based on thorough examination, from the commander of the convoy.

(a) Should the right of convoy be restricted to states with which the United States has treaties allowing this right, or should it remain general?

Great Britain alone has not yet acknowledged the right of neutral convoy as generally binding. The recognition is therefore so nearly universal that there is no reason for restriction upon the rule.

The reasons for neutral convoy are steadily growing less with the change in the methods of commercial intercourse. The French rules, issued during the Franco-Prussian war, indicate the general position of civilized states:

14. CONVOIS.—Vous ne visiterez point les bâtiments qui se trouveront sous le convoi d'un navire de guerre neutre, et vous vous bornerez à réclamer du commandant du convoi une liste des bâtiments placés sous sa direction, avec la déclaration écrite qu'ils n'appartiennent pas à l'ennemi et ne sont engagés dans aucun commerce illicite. Si cependant vous aviez lieu de soupçonner que la religion du commandant du convoi a été surprise, vous communiqueriez vos soupçons à cet officier, qui procéderait seul à la visite des bâtiments suspectés. (Duboc, Droit de Visite, p. 128.)

(b) What should be considered "proper assurance"?

"Proper assurance," according to Article 30, should cover:

1. Establishment of identity of war vessels.
2. Declaration by commander of the convoying vessel that the private vessels, giving names, with him are neutral vessels of his own state.
3. Declaration by the commander that he has made a thorough examination of these vessels and that he considers them exempt from search.

In some instances treaty provisions set forth what is "proper assurance:" "The verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and when bound to an enemy's port, that they have no contrabrand goods on board shall be sufficient." (Art. XIX, Treaty U. S. and Italy, Feb. 26, 1871.)

It might be held by the "favored nation" clause that this would be in general "proper assurance."

#### *Article 31.*

The object of the visit or search of a vessel is:

- (1) To determine its nationality.

(2) To ascertain whether contraband of war is on board.

(3) To ascertain whether a breach of blockade is intended or has been committed.

(4) To ascertain whether the vessel is engaged in any capacity in the service of the enemy.

The right of search must be exercised in strict conformity with treaty provisions existing between the United States and other States and with proper consideration for the vessel boarded.

(a) Is there a difference between visit and search?

The words "visit" and "search" are usually coupled at the present time and it is customary to regard visit and search as a single act. (See Duboc, *Le Droit de Visite*, Chap. II, Part I.)

Lawrence says, "This is called indifferently the Right of Search or the Right of Visit and Search." (*Principles of International Law*, p. 392.) Some writers mention the act by one name and some writers mention it by the other, while other writers use both names. There was a distinction, however, in the earlier practice, and there were numerous controversies centering upon the distinguishing of the two terms in the first half of the nineteenth century. It was not till 1843 that Mr. Everett was able to write to Mr. Webster of Lord Aberdeen representing the English point of view, "he concurred with you in the proposition that there is no such distinction as that between a right of search and a right of visit."

(b) In line 8, after the words "service of the enemy," should the words "or guilty of unneutral service" be inserted?

In view of the increasing range of unneutral service it would be advisable to have some provision in regard to such service at this point in the code. This could be inserted properly after the word "vessel" in the seventh line of Article 31. The clause would then read: "To ascertain whether the vessel is guilty of unneutral service or is engaged in any capacity in the service of the enemy."

*Article 32.*

The following mode of procedure, subject to any special treaty stipulations, is to be followed by the boarding vessel, whose colors must be displayed at the time:

The vessel is brought to by firing a gun with blank charge. If this is not sufficient to cause her to lie to, a shot is fired across the bows, and in case of flight or resistance force can be used to compel the vessel to surrender.

The boarding vessel should then send one of its smaller boats alongside, with an officer in charge wearing side arms, to conduct the search. Arms may be carried in the boat, but not upon the persons of the men. When the officer goes on board of the vessel he may be accompanied by not more than two men, unarmed, and he should at first examine the vessel's papers to ascertain her nationality, the nature of the cargo, and the ports of departure and destination. If the papers show contra-brand, an offense in respect of blockade, or enemy service, the vessel should be seized; otherwise she should be released, unless suspicious circumstances justify a further search. If the vessel be released, an entry in the log book to that effect should be made by the boarding officer.

(a) Should Article 32 be changed in any respect?

Article 32 seems to be sufficiently full and explicit. Many countries allow more than two men to accompany the boarding officer. This is not an important provision, however.

(b) Under this article can search be extended to a suspected person on board the ship visited?

By Article 31 the object of visit and search is distinctly stated. The right of visit and search is thus confined to the vessel's papers and cargo. The clause "unless suspicious circumstances justify a further search" applies to the vessel only.

Risley, "The Law of War," p. 267, says: "The lawful exercise of the right extends to ships and property, but not to persons on board ship."

If there is suspicion of enemy service, as in the transportation of troops, the vessel may be seized and sent into port for adjudication.

*Article 33.*

Irrespective of the character of her cargo, or her purported destination, a neutral vessel should be seized if she:

(1) Attempts to avoid search by escape; but this must be clearly evident.

(2) Resists search with violence.

(3) Presents fraudulent papers.

(4) Is not supplied with the necessary papers to establish the objects of search.

(5) Destroys, defaces, or conceals papers.

The papers generally expected to be on board of a vessel are:

(1) The register.

(2) The crew and passenger list.

(3) The log book.

(4) A bill of health.

(5) The manifest of cargo.

(6) A charter party, if the vessel is chartered.

(7) Invoices and bills of lading.

(a) What would be the effect if a vessel were found to have double papers?

Double papers would involve a violation of (3) under Article 33, and the presence of fraudulent papers is sufficient to justify seizure. One set of papers must be fraudulent, as the vessel can not at the same time be fully documented from two states. An officer would be allowed, however, to exercise some discretion in such a case, as he would in the opposite case, when it is held that "The want of some of these papers (required under Article 33) is strong presumptive evidence against a ship's neutrality, yet the want of any one of them is not absolutely conclusive."

(b) What would be the effect if a vessel were found to have an enemy pass?

The possession of an enemy pass would usually imply that the use of the pass by the vessel would be of service to the enemy; consequently, unless there were good evidence and reason to the contrary the vessel should be seized.

## SECTION VI.—CONTRABAND OF WAR.

*Article 34.*

The term “contraband of war” includes only articles having a belligerent destination and purpose. Such articles are classed under two general heads:

(1) Articles that are primarily and ordinarily used for military purposes in time of war, such as arms and munitions of war, military material, vessels of war, or instruments made for the immediate manufacture of munitions of war.

(2) Articles that may be and are used for purposes of war or peace, according to circumstances.

Articles of the first class, destined for ports of the enemy or places occupied by his forces, are always contraband of war.

Articles of the second class, when actually and especially destined for the military or naval forces of the enemy, are contraband of war.

In case of war, the articles that are conditionally and unconditionally contraband, when not specifically mentioned in treaties previously made and in force, will be duly announced in a public manner.

*Article 35.*

Vessels, whether neutral or otherwise, carrying contraband of war destined for the enemy, are liable to seizure and detention, unless treaty stipulations otherwise provide.

*Article 36.*

Until otherwise announced, the following articles are to be treated as contraband of war:

*Absolutely contraband.*—Ordnance; machine guns and their appliances and the parts thereof; armor plate and whatever pertains to the offensive and defensive armament of naval vessels; arms and instruments of iron, steel, brass, or copper, or of any other material, such arms and instruments being specially adapted for use in war by land or sea; torpedoes and their appurtenances; cases for mines, of whatever material; engineering and transport materials, such as gun carriages, caissons, cartridge boxes, campaigning forges, canteens, pontoons; ordnance stores; portable range finders; signal flags destined for naval use; ammunition and explosives of all kinds and their component parts; machinery for the manufacture of arms and munitions of war; saltpeter;



military accouterments and equipments of all sorts; horses and mules.

*Conditionally contraband.*—Coal, when destined for a naval station, a port of call, or a ship or ships of the enemy; materials for the construction of railways or telegraphs; and money, when such materials or money are destined for the enemy's forces; provisions, when actually destined for the enemy's military or naval forces.

(a) Should there be any change in Article 34?

There seems to be no present need for change in Article 34?

(b) Should there be any change in Article 35?

Article 35 is in accord with general practice and therefore seems to need no change.

(c) Should "vessels adapted for warlike uses" be included under Article 36? Should any changes be made in this article?

It is generally admitted that "vessels adapted for warlike uses," are included under Article 34 (1) as "military material" and there seems to be no necessity for inserting the words under 36, though there could be no particular harm in so doing.

There is no need of immediate change in the article as in accord with the introductory clause change can be made by simple announcement at any time.

(d) Under the clause in regard to "Conditionally contraband" in Article 36, should there be a comma after "ships?"

A comma should be inserted in order that "of the enemy" may more directly limit "naval station" and "port of call" also.

## SECTION VII.—BLOCKADE.

### *Article 37.*

Blockades, in order to be binding, must be effective; that is, they must be maintained by a force sufficient to render hazardous the ingress to or egress from a port.

If the blockading force be driven away by stress of weather and return without delay to its station, the continuity of the blockade is not thereby broken. If the blockading force leave its station voluntarily, except

for purposes of the blockade, or is driven away by the enemy, the blockade is abandoned or broken. The abandonment or forced suspension of a blockade requires a new notification of blockade.

*Article 38.*

Neutral vessels of war must obtain permission to pass the blockade, either from the government of the State whose forces are blockading the port, or from the officer in general or local charge of the blockade. If necessary, these vessels should establish their identity to the satisfaction of the commander of the local blockading force. If military operations or other reasons should so require, permission to enter a blockaded port can be restricted or denied.

*Article 39.*

The notification of a blockade must be made before neutral vessels can be seized for its violation. This notification may be general, by proclamation, and communicated to the neutral States through diplomatic channels; or it may be local, and announced to the authorities of the blockaded port and the neutral consular officials thereof. A special notification may be made to individual vessels, which is duly indorsed upon their papers as a warning. A notification to a neutral State is a sufficient notice to the citizens or subjects of such State. If it be established that a neutral vessel has knowledge or notification of the blockade from any source, she is subject to seizure upon a violation or attempted violation of the blockade.

The notification of blockade should declare not only the limits of the blockade, but the exact time of its commencement and the duration of time allowed a vessel to discharge, reload cargo, and leave port.

*Article 40.*

Vessels appearing before a blockaded port, having sailed before notification, are entitled to special notification by a blockading vessel. They should be boarded by an officer, who should enter upon the ship's log or upon its papers, over his official signature, the name of the notifying vessel, a notice of the fact and extent of the blockade, and of the date and place of the visit. After this notice, an attempt on the part of the vessel to violate the blockade makes her liable to capture.

*Article 41.*

Should it appear, from the papers of a vessel or otherwise, that the vessel had sailed for the blockaded port after the fact of the blockade had been communicated to the country of her port of departure, or after it had been commonly known at that port, she is liable to capture and detention as a prize. Due regard must be had in this matter to any treaties stipulating otherwise.

*Article 42.*

A neutral vessel may sail in good faith for a blockaded port, with an alternative destination to be decided upon by information as to the continuance of the blockade obtained at an intermediate port. In such case, she is not allowed to continue her voyage to the blockaded port in alleged quest of information as to the status of the blockade, but must obtain it and decide upon her course before she arrives in suspicious vicinity; and if the blockade has been formally established with due notification, sufficient doubt as to the good faith of the proceeding will subject her to capture.

*Article 43.*

Neutral vessels found in port at the time of the establishment of a blockade, unless otherwise specially ordered, will be allowed thirty days from the establishment of the blockade to load their cargoes and depart from such port.

*Article 44.*

The liability of a vessel, purposing to evade a blockade, to capture and condemnation begins with her departure from the home port and lasts until her return, unless in the meantime the blockade of the port is raised.

*Article 45.*

The crews of neutral vessels violating or attempting to violate a blockade are not to be treated as prisoners of war, but any of the officers or crew whose testimony may be desired before the prize court should be detained as witnesses.

Under Section VII, Blockade:

(a) Should a clause to the effect that "The United States regards blockade strictly as a measure of war and does not recognize the right of insurgents to establish a blockade," be inserted?

It would be wise to make Article 37 read, "Blockade is a measure of war between belligerents, and in order to be binding must be effective; that is, it must be maintained by a force sufficient to render hazardous the ingress to or egress from a port." This would eliminate both insurgent and pacific blockade from the rules under Section VII.

Some of these matters were quite fully discussed in the International Law Situations, 1902, Naval War College, Situations VI and VII, pages 57-97. Subsequently the United States in the case of the proposed "pacific blockade" of Venezuelan ports refused sanction to this form of constraint.

(b) Should a clause to the effect that the United States does not not recognize the right of any state or states to establish a pacific blockade which shall affect third powers, be inserted?

In making blockade a measure of war in (a) above, it is probably unnecessary to insert any further provision, particularly as the attitude of the United States is now known.

(c) Should Article 42 be stricken out?

Article 42 practically agrees with the sixth section of the instructions to blockading vessels issued by the Navy Department during the war of the United States with Spain.

This article is very liberal in its provisions. It has been maintained that such a vessel is not sailing for a blockaded port, but for a certain port, provided it is not blockaded when the vessel arrives at an intermediate port, otherwise for a specified unblockaded port. The vessel must, therefore, not sail direct to the blockaded port, but to the intermediate port for information. The court has ruled that "A vessel which has full knowledge of the existence of a blockade before she enters upon her voyage has no right to claim a warning or indorsement when taken in the act of attempting to enter. It would be an absurd construction of the President's proclamation to require a notice to be given to those who already had knowledge. A notification is for those

only who have sailed without a knowledge of the blockade and get the first information from the blockading vessel." (Manual of International Law, Naval War College, p. 152.) Nor has a vessel a right to expect leniency when it sails to a port publicly known to be blockaded, with the hope that the blockade may be raised before it arrives at the blockaded port. Such a vessel can not demand a warning from the blockading fleet, but is liable to capture, even though it may profess absence of intention to enter the port if found to be blockaded, but in such case to proceed to an alternative destination. In order to avoid liability under Article 44 of the Naval War Code, the vessel should sail directly for the intermediate port for the necessary information. (See Perels, *Seerecht der Gegenwart*, p. 273, sec. 51.)

By the change in Article 15 (see above under Article 15), Article 43 comes under consideration. It is stated in Snow's Manual of International Law issued in 1898, page 157, that "The time allowed for egress of a ship in a blockaded port is generally fifteen days after the establishment of the blockade."

It is customary to allow neutral vessels some time for exit and in general this may be said to be the law, but a "thirty-day" period can not be assumed as general. Therefore, insert in place of "thirty" the words "a specified number," and the words "unless otherwise specially ordered" should be omitted.

(d) How would Articles 42 and 44 lead to confusion in practice?

Article 44 if placed before Article 42 would make matters more clear. The two classes of vessels mentioned in these articles are very distinct when it is possible to apprehend the motives of those who are responsible for their movements.

## SECTION VIII.—THE SENDING IN OF PRIZES.

### *Article 46.*

Prizes should be sent in for adjudication, unless otherwise directed, to the nearest suitable port, within the territorial jurisdiction of the United States, in which a prize court may take action.

*Article 47.*

The prize should be delivered to the court as nearly as possible in the condition in which she was at the time of seizure, and to this end her papers should be carefully sealed at the time of seizure and kept in the custody of the prize master.

*Article 48.*

All witnesses whose testimony is necessary to the adjudication of the prize should be detained and sent in with her, and if circumstances permit it is preferable that the officer making the search should act as prize master.

The laws of the United States in force concerning prizes and prize cases must be closely followed by officers and men of the United States Navy.

*Article 49.*

The title to property seized as prize changes only by the decision rendered by the prize court. But if the vessel or its cargo is needed for immediate public use, it may be converted to such use, a careful inventory and appraisal being made by impartial persons and certified to the prize court.

*Article 50.*

If there are controlling reasons why vessels that are properly captured may not be sent in for adjudication—such as unseaworthiness, the existence of infectious disease, or the lack of a prize crew—they may be appraised and sold, and if this can not be done, they may be destroyed. The imminent danger of recapture would justify destruction if there should be no doubt that the vessel was a proper prize. But in all such cases all of the papers and other testimony should be sent to the prize court, in order that a decree may be duly entered.

SECTION IX.—ARMISTICE, TRUCE, AND CAPITULATIONS, AND VIOLATIONS OF LAWS OF WAR.

*Article 51.*

A truce or capitulation may be concluded, without special authority, by the commander of a naval force of the United States with the commander of the forces of the enemy, to be limited, however, to their respective commands.

A general armistice requires an agreement between the respective belligerent governments.

*Article 52.*

After agreeing upon or signing a capitulation the captulator must neither injure nor destroy the vessels, property, or stores in his possession that he is to deliver up, unless the right to do so is expressly reserved to him in the agreement or capitulation.

*Article 53.*

The notice of the termination of hostilities, before being acted upon, must be officially received by a commander of a naval force.

Except where otherwise provided, acts of war done after the receipt of the official notice of the conclusion of a treaty of peace or of an armistice are null and void.

*Article 54.*

When not in conflict with the foregoing the regulations respecting the laws of war on land, in force with the armies of the United States, will govern the Navy of the United States when circumstances render them applicable.

*Article 55.*

The foregoing regulations are issued with the approval of the President of the United States, for the government of all persons attached to the naval service, subject to all laws and treaties of the United States that are now in force or may hereafter be established.

Sections VIII and IX accord with general practice and therefore no changes are recommended in these sections.

## GENERAL CONCLUSIONS.

The general conclusions as drawn from the discussions in the conferences in international law are briefly indicated in the following preliminary report of the work of the conferences.

Capt. F. E. CHADWICK, U. S. N.,

*President Naval War College, Newport, R. I.*

DEAR SIR: I present herewith a brief review of the results of the conferences in international law, held during the summer session of 1903, of the Naval War College.

There was used as the basis for these conferences the set of rules issued to the Navy in 1900 and having the title page, "A Naval War

Code, prepared by Captain Charles H. Stockton, United States Navy, president of the Naval War College, and prescribed for the use of the Navy. Washington: Government Printing Office. 1900."

For these conferences the opinions and criticisms of those interested in the code were, so far as obtainable, gathered and presented to the officers in attendance. These included opinions from officials and others in foreign states as well as from citizens of the United States, from acknowledged authorities in international law, and from those who in time of war would be affected or whose action would be determined by these rules.

The aim of the conference was to consider the Naval War Code of 1900 from all points of view, seriously and frankly, with reference to its adaptability to the purpose for which it was drawn and its probable effect in case of war to which the United States might be a party.

From the extended discussions of the session of 1903 and from the consideration of the conclusions of writers and others who have expressed opinions upon the code there come into prominence several points which seem to deserve particular and immediate notice:

1. The Naval War Code is binding upon the Navy of the United States, though it is not binding upon any state with which the United States may be at war.

2. The Naval War Code contains some provisions upon which there is not at present any international agreement, and upon which there are differences of opinion among the authorities upon international law.

3. In case of war, the Navy of the United States might be placed in a position such that the enemy would be free to commit certain acts not forbidden by international law, but sanctioned by general practice, which acts the Navy of the United States could not do because forbidden by the code.

4. Certain articles of the code should in any case be amended and rewritten.

5. The Navy Department, by General Order 551, of June 27, 1900, published the code, under the approval of the President of the United States, "for the use of the Navy and for the information of all concerned." The code is therefore regarded as the official statement of the United States upon matters of maritime warfare. As such it has received careful and approving attention abroad.

6. It is an almost unanimous opinion at home and abroad that there should be a code for maritime warfare.

7. The Hague Convention of 1898 recommended that various matters relating to maritime warfare upon which the Code of the United States touches, as well as some not included, be referred to a subsequent conference. Among these matters were some particularly urged upon the Conference of 1898 by the delegates from the United States.

8. The Naval War Code of 1900 was originally drawn with the hope that it possibly "should be presented to other countries as an



international projet." The code is particularly adapted to serve such a purpose.

9. The United States would be following a course consistent with its past history and consistent with its attitude at the Hague Conference in urging an international agreement upon the rules of war at sea.

As a result of all of these and other considerations it was the opinion unanimously given by those in attendance upon the summer session of 1908 of the Naval War College that it would be advisable:

(1) That the proper steps be taken for the calling of an international conference for the consideration of the matters referred at the Hague Conference and for the formulation of international rules for war at sea.

(2) That the Naval War Code of the United States be offered as a tentative formulation of the rules which should be considered.

(3) That pending the calling of an international conference upon the laws and usages of war at sea, General Order 551 be withdrawn in order that the delegates from the United States might be unrestrained.

(4) That if the Code be reprinted before the conference is called, it be issued not as an order, but, with revisions, as a statement of the rules which may be expected to prevail in case of war upon the sea.

Respectfully yours,

GEORGE GRAFTON WILSON.

### *Summary of suggested changes.*

Changes in articles of the code are suggested as follows:

ARTICLE 1. The general object of war is to procure the complete submission of the enemy at the earliest possible period, with the least expenditure of life and property.

In maritime operations the usual measures for attaining this object are: to capture or destroy the military and naval forces of the enemy; his fortifications, arsenals, dry docks, and dockyards; his various military and naval establishments, and his maritime commerce and communications;—to prevent his procuring war material from neutral sources;—to cooperate with the Army in military operations on land, and to protect and defend the national territory, property, and sea-borne commerce.

ARTICLE 3. Military necessity permits measures that are indispensable for securing the ends of the war and that are in accordance with modern laws and usages of war.

It does not permit wanton devastation, or the doing of any hostile act that would make the return of peace unnecessarily difficult.

Noncombatants are to be spared in person and property during hostilities, as much as the necessities of war and the conduct of such noncombatants will permit.

By the Declaration of The Hague, signed July 29, 1899, to which the United States is a party, it is provided that:

The contracting powers agree to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, or by other new methods of similar nature.

The present Declaration is only binding on the contracting powers in case of war between two or more of them.

It shall cease to be binding from the time when in a war between the contracting powers one of the belligerents is joined by a non-contracting power.

ARTICLE 4. The bombardment, by a naval force, of unfortified and undefended towns, villages, or buildings is forbidden, though such towns, villages, or buildings are liable to the damages incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, and such towns, villages, or buildings are liable to bombardment when reasonable requisitions for provisions and supplies at the time essential to the naval force are withheld, in which case due notice of bombardment shall be given.

The bombardment of unfortified and undefended towns and places for the nonpayment of ransom is forbidden.

ARTICLE 5. Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraphic cables in time of war, irrespective of their ownership:

(a) Submarine telegraphic cables between points in the territory of an enemy, or between the territory of the United States and that of an enemy, are subject to such treatment as the necessities of war may require.

(b) Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy or at any point outside of neutral jurisdiction if the necessities of war require.

(c) Submarine telegraphic cables between two neutral territories shall be held inviolable and free from interruption.

Article 7 following should be omitted from the code pending an international agreement upon the use of colors at sea. The reasons are given under the discussion above (p. 37).

(ARTICLE 7. The use of false colors in war is forbidden, and when summoning a vessel to lie to, or before firing a gun in action, the national colors should be displayed by vessels of the United States.)

ARTICLE 8. (See discussion, p. 42).

ARTICLE 9. It was decided that Article 9 was unessential in the code and should be omitted. The discussion is summarized above (p. 44). The proposed revision was as follows:

(ARTICLE 9. With the armed forces duly constituted for land warfare, the following are recognized as armed forces of the state:

(1) The officers and men of the Navy, Naval Reserve, Naval Militia, and their auxiliaries.

(2) The officers and men of all other armed vessels cruising under lawful authority.)

ARTICLE 10. In case of capture the following become prisoners of war and are entitled to the humane treatment due to such prisoners:

(1) The armed forces duly constituted for land warfare.

(2) The personnel of duly authorized armed vessels of the enemy, whether combatants or noncombatants.

(3) The personnel of all public or private unarmed vessels engaged in the service of the enemy.

(4) The personnel of private vessels of an enemy who, for defense or in protection of a vessel placed in their charge, resist attack.

ARTICLE 11. The personnel of a private vessel of an enemy captured as a prize can be held, at the discretion of the captor, as witnesses, or as prisoners of war when by training or enrollment they are immediately available for the naval service of the enemy; or they may be released from detention or confinement. They are entitled to their personal effects and to such individual property,

not contraband of war, as is not held as part of the vessel, its equipment, or as money, plate, or cargo contained therein.

All passengers not in the service of the enemy, and all women and children on board such vessels should be released and landed at a convenient port, at the first opportunity.

If any person in the Navy strips off the clothes of, or pillages, or in any manner maltreats any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge.

(This last clause is No. 17 of Articles for the Government of the Navy.)

**ARTICLE 12.** The United States of America acknowledge and protect, in hostile countries occupied by their forces, private property, religion, and morality; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished. (See discussion, p. 50.)

**ARTICLE 14.** All private vessels of the enemy, except coast fishing vessels innocently employed, are subject to capture, unless exempt by treaty stipulations.

In case of military or other necessity, private vessels of an enemy may be destroyed, or they may be retained for the service of the Government. Whenever captured vessels, arms, munitions of war, or other material are destroyed or taken for the use of the United States before coming into the custody of a prize court, they shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained; and the survey, appraisal, and inventory shall be sent to the prize court where proceedings are to be held.

**ARTICLE 15.** In absence of treaty governing the case, the treatment to be accorded private vessels of an enemy sailing prior to the beginning of a war, to or from a port of the United States, or sojourning in a port of the United States at the beginning of the war, will be determined by special instructions from the Navy Department. (See discussion, p. 57.)

**ARTICLE 19.** A neutral vessel carrying the goods of the enemy is, with her cargo, exempt from capture,

except when carrying contraband of war, endeavoring to evade a blockade, or guilty of unneutral service.

In place of Section IV the following articles of The Hague Convention, for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864, should be inserted:

ARTICLE I. Military hospital ships, that is to say, ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick, or shipwrecked, and the names of which shall have been communicated to the belligerent powers at the beginning or during the course of hostilities, and in any case before they are employed, shall be respected, and can not be captured while hostilities last.

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

ARTICLE II. Hospital ships, equipped wholly or in part at the cost of private individuals or officially recognized relief societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they belong has given them an official commission and have notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships should be furnished with a certificate from the competent authorities, declaring that they had been under their control while fitting out and on final departure.

ARTICLE III. Hospital ships, equipped wholly or in part at the cost of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture if the neutral Power to whom they belong has given them an official commission and notified their names to the belligerent powers at the commencement of or during hostilities, and in any case before they are employed.

ARTICLE IV. The ships mentioned in Articles I, II, and III shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents independently of their nationality.

The Governments engage not to use these ships for any military purpose.

These ships must not in any way hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and visit them; they can refuse their help, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall inscribe in the sailing papers of the hospital ships the orders they give them.

ARTICLE V. The military hospital ships shall be distinguished by being painted white outside, with a horizontal band of green about a meter and a half in breadth.

The ships mentioned in Articles II and III shall be distinguished by being painted white outside, with a horizontal band of red about a meter and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital ships shall make themselves known by hoisting, together with their national flag, the white flag with a red cross, provided by the Geneva Convention.

ARTICLE VI. Neutral merchantmen, yachts, or vessels having or taking on board sick, wounded, or shipwrecked of the belligerents can not be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.

ARTICLE VII. The religious, medical, or hospital staff of any captured ship is inviolable, and its members can not be made prisoners of war. On leaving the ship they take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave when the commander in chief considers it possible.

The belligerents must guarantee to the staff that has fallen into their hands the enjoyment of their salaries intact.

ARTICLE VIII. Sailors and soldiers who are taken on board when sick or wounded, to whatever nation they belong, shall be protected and looked after by the captors.

ARTICLE IX. The shipwrecked, wounded, or sick of one of the belligerents who fall into the hands of the other, are prisoners of war. The captor must decide, according to circumstances, if it is best to keep them or send them to a port of his own country, to a neutral port, or even to a hostile port. In the last case prisoners thus repatriated can not serve as long as the war lasts.

ARTICLE X. (Excluded.)

ARTICLE XI. The rules contained in the above articles are binding only on the contracting powers in case of war between two or more of them.

The said rules shall cease to be binding from the time when in a war between the contracting powers one of the belligerents is joined by a noncontracting power.

ARTICLE 31. The object of the visit and search of a vessel is:

- (1) To determine its nationality.
- (2) To ascertain whether contraband of war is on board.

(3) To ascertain whether a breach of blockade is intended or has been committed.

(4) To ascertain whether the vessel is guilty of unneutral service or is engaged in any capacity in the service of the enemy.

The right of search must be exercised in strict conformity with treaty provisions existing between the United States and other states and with proper consideration for the vessel boarded.

ARTICLE 37. Blockade is a measure of war between belligerents, and in order to be binding must be effective; that is, it must be maintained by a force sufficient to render hazardous the ingress to or egress from a port.

If the blockading force be driven away by stress of weather and return without delay to its station, the continuity of the blockade is not thereby broken. If the blockading force leave its station voluntarily, except for purposes of the blockade, or is driven away by the enemy, the blockade is abandoned or broken. The abandonment or forced suspension of a blockade requires a new notification of blockade.

ARTICLE 43. Neutral vessels found in port at the time of the establishment of a blockade will be allowed a specified number of days from the establishment of the blockade, to load their cargoes and depart from such port.

(Articles of the code will need to be renumbered in accordance with changes suggested above.)





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## APPENDICES.

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## APPENDIX I.

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### THE UNITED STATES NAVAL WAR CODE OF 1900.

GENERAL ORDERS {

No. 551.

NAVY DEPARTMENT,

WASHINGTON, *June 27, 1900.*

The following code of naval warfare, prepared for the guidance and use of the naval service by Capt. Charles H. Stockton, United States Navy, under the direction of the Secretary of the Navy, having been approved by the President of the United States, is published for the use of the Navy and for the information of all concerned.

JOHN D. LONG,  
*Secretary.*

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GENERAL ORDER {

No. 150.

NAVY DEPARTMENT,

WASHINGTON, *February 4, 1904.*

By direction of the President, General Order No. 551, dated June 27, 1900, publishing a naval war code for the use of the Navy and for the information of all concerned, is hereby revoked.

WILLIAM H. MOODY,  
*Secretary.*

NOTE.—The above orders relate to the following code, entitled "The Laws and Usages of War at Sea," which furnished the basis for the International Law Discussions of 1903.



# THE LAWS AND USAGES OF WAR AT SEA.

## SECTION I.—HOSTILITIES.

Page 5.

ARTICLE 1. The general object of war is to procure the complete submission of the enemy at the earliest possible period with the least expenditure of life and property.

The special objects of maritime war are: The capture or destruction of the military and naval forces of the enemy; of his fortifications, arsenals, dry docks and dockyards; of his various military and naval establishments, and of his maritime commerce; to prevent his procuring war material from neutral sources; to aid and assist military operations on land, and to protect and defend the national territory, property, and sea-borne commerce.

ART. 2. The area of maritime warfare comprises the high seas or other waters that are under no jurisdiction, and the territorial waters of belligerents. Neither hostilities nor any belligerent right, such as that of visitation and search, shall be exercised in the territorial waters of neutral states.

The territorial waters of a state extend seaward to the distance of a marine league from the low-water mark of its coast line. They also include, to a reasonable extent, which is in many cases determined by usage, adjacent parts of the sea, such as bays, gulfs, and estuaries inclosed within headlands; and where the territory by which they are inclosed belongs to two or more states, the marine limits of such states are usually defined by conventional lines.

Page 6.

ART. 3. Military necessity permits measures that are indispensable for securing the ends of the war and that are in accordance with modern laws and usages of war.

It does not permit wanton devastation, the use of poison, or the doing of any hostile act that would make the return of peace unnecessarily difficult.

Noncombatants are to be spared in person and property during hostilities as much as the necessities of war and the conduct of noncombatants will permit.

The launching of projectiles and explosives from balloons, or by other new methods of a similar nature, is prohibited for a term of five years by the Declaration of The

Hague, to which the United States became a party. This rule does not apply when at war with a noncontracting power.

Page 7.

ART. 4. The bombardment, by a naval force, of unfortified and undefended towns, villages, or buildings is forbidden, except when such bombardment is incidental to the destruction of military or naval establishments, public depots of munitions of war, or vessels of war in port, or unless reasonable requisitions for provisions and supplies essential, at the time, to such naval vessel or vessels are forcibly withheld, in which case due notice of bombardment shall be given.

The bombardment of unfortified and undefended towns and places for the nonpayment of ransom is forbidden.

ART. 5. The following rules are to be followed with regard to submarine telegraphic cables in time of war, irrespective of their ownership:

(a) Submarine telegraphic cables between points in the territory of an enemy, or between the territory of the United States and that of an enemy, are subject to such treatment as the necessities of war may require.

(b) Submarine telegraphic cables between the territory of an enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy.

(c) Submarine telegraphic cables between two neutral territories shall be held inviolable and free from interruption.

Page 8.

ART. 6. If military necessity should require it, neutral vessels found within the limits of belligerent authority may be seized and destroyed or otherwise utilized for military purposes, but in such cases the owners of neutral vessels must be fully recompensed. The amount of the indemnity should, if practicable, be agreed on in advance with the owner or master of the vessel. Due regard must be had to treaty stipulations upon these matters.

ART. 7. The use of false colors in war is forbidden, and when summoning a vessel to lie to, or before firing a gun in action, the national colors should be displayed by vessels of the United States.

ART. 8. In the event of an enemy failing to observe the laws and usages of war, if the offender is beyond reach, resort may be had to reprisals, if such action should be considered a necessity; but due regard must always be had to the duties of humanity. Reprisals should not exceed in severity the offense committed, and must not be resorted to when the injury complained of has been repaired.

If the offender is within the power of the United States he can be punished, after due trial, by a properly constituted military or naval tribunal. Such offenders are liable to the punishments specified by the criminal law.

## SECTION II.—BELLIGERENTS.

ART. 9. In addition to the armed forces duly constituted for land warfare, the following are recognized as armed forces of the state: Page 9.

(1) The officers and men of the Navy, Naval Reserve, Naval Militia, and their auxiliaries.

(2) The officers and men of all other armed vessels cruising under lawful authority.

ART. 10. In case of capture, the personnel of the armed forces or armed vessels of the enemy, whether combatants or noncombatants, are entitled to receive the humane treatment due to prisoners of war.

The personnel of all public unarmed vessels of the enemy, either owned or in his service as auxiliaries, are liable, upon capture, to detention as prisoners of war.

The personnel of merchant vessels of an enemy who, in self-defense and in protection of the vessel placed in their charge, resist an attack, are entitled, if captured, to the status of prisoners of war.

ART. 11. The personnel of a merchant vessel of an enemy captured as a prize can be held, at the discretion of the captor, as witnesses, or as prisoners of war when by training or enrollment they are immediately available for the naval service of the enemy, or they may be released from detention or confinement. They are entitled to their personal effects and to such individual property, not contraband of war, as is not held as part of the vessel, its equipment, or as money, plate, or cargo contained therein. Page 10

All passengers not in the service of the enemy, and all women and children on board such vessels should be released and landed at a convenient port at the first opportunity.

Any person in the naval service of the United States who pillages or maltreats, in any manner, any person found on board a merchant vessel captured as a prize, shall be severely punished.

ART. 12. The United States of America acknowledge and protect, in hostile countries occupied by their forces, religion and morality; the persons of the inhabitants, especially those of women, and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

## SECTION III.—BELLIGERENT AND NEUTRAL VESSELS.

ART. 13. All public vessels of the enemy are subject to capture, except those engaged in purely charitable or scientific pursuits, in voyages of discovery, or as hospital ships under the regulations hereinafter mentioned.

Page 11.

Cartel and other vessels of the enemy, furnished with a proper safe-conduct, are exempt from capture, unless engaged in trade or belligerent operations.

ART. 14. All merchant vessels of the enemy, except coast fishing vessels innocently employed, are subject to capture, unless exempt by treaty stipulations.

In case of military or other necessity, merchant vessels of an enemy may be destroyed, or they may be retained for the service of the Government. Whenever captured vessels, arms, munitions of war, or other material are destroyed or taken for the use of the United States before coming into the custody of a prize court, they shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained; and the survey, appraisal, and inventory shall be sent to the prize court where proceedings are to be held.

ART. 15. Merchant vessels of the enemy that have sailed from a port within the jurisdiction of the United States, prior to the declaration of war, shall be allowed to proceed to their destination, unless they are engaged in carrying contraband of war or are in the military service of the enemy.

Page 12.

Merchant vessels of the enemy, in ports within the jurisdiction of the United States at the outbreak of war, shall be allowed thirty days after war has begun to load their cargoes and depart, and shall thereafter be permitted to proceed to their destination, unless they are engaged in carrying contraband of war or are in the military service of the enemy.

Merchant vessels of the enemy, which shall have sailed from any foreign port for any port within the jurisdiction of the United States before the declaration of war, shall be permitted to enter and discharge their cargo and thereafter to proceed to any port not blockaded.

ART. 16. Neutral vessels in the military or naval service of the enemy, or under the control of the enemy for military or naval purposes, are subject to capture or destruction.

ART. 17. Vessels of war of the United States may take shelter during war in a neutral port, subject to the limitations that the authorities of the port may prescribe as to the number of belligerent vessels to be admitted into the port at any one time. This shelter, which is allowed by



comity of nations, may be availed of for the purpose of evading an enemy, from stress of weather, or to obtain supplies or repairs that the vessel needs to enable her to continue her voyage in safety and to reach the nearest port of her own country.

ART. 18. Such vessel or vessels must conform to the regulations prescribed by the authorities of the neutral port with respect to the place of anchorage, the limitation of the stay of the vessel in port, and the time to elapse before sailing in pursuit or after the departure of a vessel of the enemy. Page 13.

No increase in the armament, military stores, or in the number of the crew of a vessel of war of the United States shall be attempted during the stay of such vessel in a neutral port.

ART. 19. A neutral vessel carrying the goods of an enemy is, with her cargo, exempt from capture, except when carrying contraband of war or endeavoring to evade a blockade.

ART. 20. A neutral vessel carrying hostile dispatches, when sailing as a dispatch vessel practically in the service of the enemy, is liable to seizure. Mail steamers under neutral flags carrying such dispatches in the regular and customary manner, either as a part of their mail in their mail bags, or separately as a matter of accommodation and without special arrangement or remuneration, are not liable to seizure and should not be detained, except upon clear grounds of suspicion of a violation of the laws of war with respect to contraband, blockade, or unneutral service, in which case the mail bags must be forwarded with seals unbroken.

#### SECTION IV.—HOSPITAL SHIPS—THE SHIPWRECKED, SICK AND WOUNDED. Page 14.

ART. 21. Military hospital ships—that is to say, vessels constructed or fitted out by the belligerent states for the special and sole purpose of assisting the wounded, sick, or shipwrecked, and whose names have been communicated to the respective powers at the opening or in the course of hostilities, and in any case before they are so employed, shall be respected, and are not liable to capture during the period of hostilities.

Such ships shall not be classed with warships, with respect to the matter of sojourn in a neutral port.

ART. 22. Hospital ships fitted out, in whole or in part, at the expense of private individuals, or of officially recognized relief societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they are subject has given them an official commission and has notified the hostile Power of the names of

such ships at the beginning or in the course of hostilities, and in any case before they are employed.

These ships should be furnished with a certificate, issued by the proper authorities, setting forth that they were under the control of such authorities during their equipment and at the time of their final departure.

Page 15.

ART. 23. The vessels mentioned in Articles 21 and 22 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

It is strictly forbidden to use these vessels for any military purpose.

These vessels must not in any way hamper the movements of the combatants.

During and immediately after engagements they act at their own risk and peril.

The belligerents have the right to control and visit such vessels; they may decline their cooperation, require them to withdraw, prescribe for them a fixed course, and place a commissioner on board; they may even detain them, if required by military necessity.

When practicable, the belligerents shall enter upon the log of hospital ships such orders as they may give them.

ART. 24. Military hospital ships shall be distinguished by being painted white outside, with a horizontal band of green about  $1\frac{1}{2}$  meters wide.

The ships designated in Article 22 shall be distinguished by being painted white outside, with a horizontal band of red about  $1\frac{1}{2}$  meters wide.

The boats of hospital ships, as well as small craft that may be devoted to hospital service, shall be distinguished by being painted in the same colors.

Page 16.

Hospital ships shall, in general, make themselves known by hoisting, with their national flag, the white flag with a red cross prescribed by the Geneva Convention.

ART. 25. Merchant vessels, yachts, or neutral vessels that happen to be in the vicinity of active maritime hostilities, may gather up the wounded, sick, or shipwrecked of the belligerents. Such vessels, after this service has been performed, shall report to the belligerent commander controlling the waters thereabouts, for future directions, and while accompanying a belligerent will be, in all cases, under his orders; and if a neutral, be designated by the national flag of that belligerent carried at the foremast-head, with the red-cross flag flying immediately under it.

These vessels are subject to capture for any violation of neutrality that they may commit. Any attempt to carry off such wounded, sick, and shipwrecked, without permission, is a violation of neutrality. They are also subject, in general, to the provisions of Article 23.

ART. 26. The religious, medical, and hospital personnel of any vessel captured during hostilities shall be inviolable and not subject to be made prisoners of war. They shall be permitted, upon leaving the ship, to carry with them those articles and instruments of surgery which are their private property.

Such personnel shall continue to exercise their functions as long as may be necessary, whereupon they may withdraw when the commander in chief deems it possible to do so. Page 17.

The belligerents shall insure to such personnel, when falling into their hands, the free exercise of their functions, the receipt of salaries, and entire freedom of movement, unless a military necessity prevents.

ART. 27. Sailors and soldiers, embarked when sick or wounded, shall be protected and cared for by the captors, no matter to what nation they may belong.

ART. 28. The shipwrecked, wounded, or sick of the enemy, who are captured, are considered prisoners of war. The captor must decide, according to circumstances, whether it is expedient to keep them or send them to a port of his own country, to a neutral port, or even to a port of the enemy. In the last case, the prisoners thus returned to their country can not serve again during the period of the war.

ART. 29. The shipwrecked, wounded, or sick, who are landed at a neutral port with the consent of the local authorities, shall, unless there exists an agreement to the contrary between the neutral state and the belligerent states, agree that they will not again take part in the operations of war.

The expenses of hospital care and of internment shall be borne by the state to which such shipwrecked, wounded, or sick belong. Page 18.

#### SECTION V.—THE EXERCISE OF THE RIGHT OF SEARCH.

ART. 30. The exercise of the right of search during war shall be confined to properly commissioned and authorized vessels of war. Convoys of neutral merchant vessels, under escort of vessels of war of their own state, are exempt from the right of search, upon proper assurances, based on thorough examination, from the commander of the convoy.

ART. 31. The object of the visit or search of a vessel is:

- (1) To determine its nationality.
- (2) To ascertain whether contraband of war is on board.
- (3) To ascertain whether a breach of blockade is intended or has been committed.

(4) To ascertain whether the vessel is engaged in any capacity in the service of the enemy.

The right of search must be exercised in strict conformity with treaty provisions existing between the United States and other states, and with proper consideration for the vessel boarded.

Page 19.

ART. 32. The following mode of procedure, subject to any special treaty stipulations, is to be followed by the boarding vessel, whose colors must be displayed at the time:

The vessel is brought to by firing a gun with blank charge. If this is not sufficient to cause her to lie to, a shot is fired across the bows, and in case of flight or resistance force can be used to compel the vessel to surrender.

The boarding vessel should then send one of its smaller boats alongside, with an officer in charge, wearing side arms, to conduct the search. Arms may be carried in the boat, but not upon the persons of the men. When the officer goes on board of the vessel he may be accompanied by not more than two men, unarmed, and he should at first examine the vessel's papers to ascertain her nationality, the nature of the cargo, and the ports of departure and destination. If the papers show contraband, an offense in respect of blockade, or enemy service, the vessels should be seized; otherwise she should be released, unless suspicious circumstances justify a further search. If the vessel be released, an entry in the log book to that effect should be made by the boarding officer.

ART. 33. Irrespective of the character of her cargo, or her purported destination, a neutral vessel should be seized if she—

(1) Attempts to avoid search by escape; but this must be clearly evident.

(2) Resists search with violence.

Page 20.

(3) Presents fraudulent papers.

(4) Is not supplied with the necessary papers to establish the objects of search.

(5) Destroys, defaces, or conceals papers.

The papers generally expected to be on board of a vessel are:

(1) The register.

(2) The crew and passenger list.

(3) The log book.

(4) A bill of health.

(5) The manifest of cargo.

(6) A charter party, if the vessel is chartered.

(7) Invoices and bills of lading.

## SECTION VI.—CONTRABAND OF WAR.

ART. 34. The term "contraband of war" includes only articles having a belligerent destination and purpose. Such articles are classed under two general heads:

(1) Articles that are primarily and ordinarily used for military purposes in time of war, such as arms and munitions of war, military material, vessels of war, or instruments made for the immediate manufacture of munitions of war.

(2) Articles that may be and are used for purposes of war or peace, according to circumstances.

Articles of the first class, destined for ports of the enemy or places occupied by his forces, are always contraband of war.

Articles of the second class, when actually and especially destined for the military or naval forces of the enemy, are contraband of war.

Page 21.

In case of war, the articles that are conditionally and unconditionally contraband, when not specifically mentioned in treaties previously made and in force, will be duly announced in a public manner.

ART. 35. Vessels, whether neutral or otherwise, carrying contraband of war destined for the enemy, are liable to seizure and detention, unless treaty stipulations otherwise provide.

ART. 36. Until otherwise announced, the following articles are to be treated as contraband of war:

*Absolutely contraband.*—Ordnance; machine guns and their appliances and the parts thereof; armor plate and whatever pertains to the offensive and defensive armament of naval vessels; arms and instruments of iron, steel, brass, or copper, or of any other material, such arms and instruments being specially adapted for use in war by land or sea; torpedoes and their appurtenances; cases for mines, of whatever material; engineering and transport materials, such as gun carriages, caissons, cartridge boxes, campaigning forges, canteens, pontoons; ordnance stores; portable range finders; signal flags destined for naval use; ammunition and explosives of all kinds and their component parts; machinery for the manufacture of arms and munitions of war; saltpeter; military accouterments and equipments of all sorts; horses and mules.

*Conditionally contraband.*—Coal, when destined for a naval station, a port of call, or a ship or ships of the enemy; materials for the construction of railways or telegraphs, and money, when such materials or money are destined for the enemy's forces; provisions, when actually destined for the enemy's military or naval forces.

Page 22.

## SECTION VII.—BLOCKADE.

ART. 37. Blockades, in order to be binding, must be effective; that is, they must be maintained by a force sufficient to render hazardous the ingress to or egress from a port.

If the blockading force be driven away by stress of weather, and return without delay to its station, the continuity of the blockade is not thereby broken. If the blockading force leave its station voluntarily, except for purposes of the blockade, or is driven away by the enemy, the blockade is abandoned or broken. The abandonment or forced suspension of a blockade requires a new notification of blockade.

ART. 38. Neutral vessels of war must obtain permission to pass the blockade, either from the government of the state whose forces are blockading the port or from the officer in general or local charge of the blockade. If necessary, these vessels should establish their identity to the satisfaction of the commander of the local blockading force. If military operations or other reasons should so require, permission to enter a blockaded port can be restricted or denied.

ART. 39. The notification of a blockade must be made before neutral vessels can be seized for its violation. This notification may be general, by proclamation, and communicated to the neutral states through diplomatic channels; or it may be local and announced to the authorities of the blockaded port and the neutral consular officials thereof. A special notification may be made to individual vessels, which is duly indorsed upon their papers as a warning. A notification to a neutral state is a sufficient notice to the citizens or subjects of such state. If it be established that a neutral vessel has knowledge or notification of the blockade from any source, she is subject to seizure upon a violation or attempted violation of the blockade.

The notification of blockade should declare, not only the limits of the blockade, but the exact time of its commencement and the duration of time allowed a vessel to discharge, reload cargo, and leave port.

ART. 40. Vessels appearing before a blockaded port, having sailed before notification, are entitled to special notification by a blockading vessel. They should be boarded by an officer, who should enter upon the ship's log or upon its papers, over his official signature, the name of the notifying vessel, a notice of the fact and extent of the blockade, and of the date and place of the visit. After this notice an attempt on the part of the vessel to violate the blockade makes her liable to capture.

ART. 41. Should it appear from the papers of a vessel, or otherwise, that the vessel had sailed for the blockaded port after the fact of the blockade had been communicated to the country of her port of departure, or after it had been commonly known at that port, she is liable to capture and detention as a prize. Due regard must be had in this matter to any treaties stipulating otherwise.

ART. 42. A neutral vessel may sail in good faith for a blockaded port, with an alternative destination to be decided upon by information as to the continuance of the blockade obtained at an intermediate port. In such case she is not allowed to continue her voyage to the blockaded port in alleged quest of information as to the status of the blockade, but must obtain it and decide upon her course before she arrives in suspicious vicinity; and if the blockade has been formally established with due notification, sufficient doubt as to the good faith of the proceeding will subject her to capture.

ART. 43. Neutral vessels found in port at the time of the establishment of a blockade, unless otherwise specially ordered, will be allowed thirty days from the establishment of the blockade, to load their cargoes and depart from such port.

ART. 44. The liability of a vessel purposing to evade a blockade, to capture and condemnation, begins with her departure from the home port and lasts until her return, unless in the meantime the blockade of the port is raised.

Page 25.

ART. 45. The crews of neutral vessels violating or attempting to violate a blockade are not to be treated as prisoners of war, but any of the officers or crew whose testimony may be desired before the prize court should be detained as witnesses.

#### SECTION VIII.—THE SENDING IN OF PRIZES.

ART. 46. Prizes should be sent in for adjudication, unless otherwise directed, to the nearest suitable port, within the territorial jurisdiction of the United States, in which a prize court may take action.

ART. 47. The prize should be delivered to the court as nearly as possible in the condition in which she was at the time of seizure, and to this end her papers should be carefully sealed at the time of seizure and kept in the custody of the prize master.

ART. 48. All witnesses whose testimony is necessary to the adjudication of the prize should be detained and sent in with her, and if circumstances permit, it is preferable that the officer making the search should act as prize master.

The laws of the United States in force concerning prizes and prize cases must be closely followed by officers and men of the United States Navy.

Page 26.

ART. 49. The title to property seized as prize changes only by the decision rendered by the prize court. But if the vessel or its cargo is needed for immediate public use, it may be converted to such use, a careful inventory and appraisal being made by impartial persons and certified to the prize court.

ART. 50. If there are controlling reasons why vessels that are properly captured may not be sent in for adjudication—such as unseaworthiness, the existence of infectious disease, or the lack of a prize crew—they may be appraised and sold, and if this can not be done, they may be destroyed. The imminent danger of recapture would justify destruction, if there should be no doubt that the vessel was a proper prize. But in all such cases all of the papers and other testimony should be sent to the prize court, in order that a decree may be duly entered.

#### SECTION IX.—ARMISTICE, TRUCE, AND CAPITULATIONS, AND VIOLATIONS OF LAWS OF WAR.

ART. 51. A truce or capitulation may be concluded, without special authority, by the commander of a naval force of the United States with the commander of the forces of the enemy, to be limited, however, to their respective commands.

Page 27.

A general armistice requires an agreement between the respective belligerent governments.

ART. 52. After agreeing upon or signing a capitulation the capitulator must neither injure nor destroy the vessels, property, or stores in his possession that he is to deliver up, unless the right to do so is expressly reserved to him in the agreement or capitulation.

ART. 53. The notice of the termination of hostilities, before being acted upon, must be officially received by a commander of a naval force.

Except where otherwise provided, acts of war done after the receipt of the official notice of the conclusion of a treaty of peace or of an armistice are null and void.

ART. 54. When not in conflict with the foregoing the regulations respecting the laws of war on land, in force with the armies of the United States, will govern the Navy of the United States when circumstances render them applicable.

ART. 55. The foregoing regulations are issued with the approval of the President of the United States, for the government of all persons attached to the naval service, subject to all laws and treaties of the United States that are now in force or may hereafter be established.



## APPENDIX II.

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### INSTRUCTIONS FOR THE GOVERNMENT OF ARMIES OF THE UNITED STATES IN THE FIELD.

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GENERAL ORDERS, }  
No. 100. }

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
*Washington, April 24, 1863.*

The following "Instructions for the Government of Armies of the United States in the Field," prepared by FRANCIS LIEBER, LL. D., and revised by a Board of Officers, of which Major General E. A. HITCHCOCK is president, having been approved by the President of the United States, he commands that they be published for the information of all concerned.

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND,  
*Assistant Adjutant General.*

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#### SECTION I.

**Martial law—Military jurisdiction—Military necessity—Retaliation.**

##### 1.

A place, district, or country occupied by an enemy stands, in consequence of the occupation, under the Martial Law of the invading or occupying army, whether any proclamation declaring Martial Law, or any public warning to the inhabitants, has been issued or not. Martial Law is the immediate and direct effect and consequence of occupation or conquest.

The presence of a hostile army proclaims its Martial Law.

##### 2.

Martial Law does not cease during the hostile occupation, except by special proclamation, ordered by the commander in chief; or by special mention in the treaty of peace concluding the war, when the occupation of a place or territory continues beyond the conclusion of peace as one of the conditions of the same.

## 3.

Martial Law in a hostile country consists in the suspension, by the occupying military authority, of the criminal and civil law, and of the domestic administration and government in the occupied place or territory, and in the substitution of military rule and force for the same, as well as in the dictation of general laws, as far as military necessity requires this suspension, substitution, or dictation.

The commander of the forces may proclaim that the administration of all civil and penal law shall continue either wholly or in part, as in times of peace, unless otherwise ordered by the military authority.

## 4.

Martial Law is simply military authority exercised in accordance with the laws and usages of war. Military oppression is not Martial Law; it is the abuse of the power which that law confers. As Martial Law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity—virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed.

## 5.

Martial Law should be less stringent in places and countries fully occupied and fairly conquered. Much greater severity may be exercised in places or regions where actual hostilities exist, or are expected and must be prepared for. Its most complete sway is allowed—even in the commander's own country—when face to face with the enemy, because of the absolute necessities of the case, and of the paramount duty to defend the country against invasion.

To save the country is paramount to all other considerations.

## 6.

All civil and penal law shall continue to take its usual course in the enemy's places and territories under Martial Law, unless interrupted or stopped by order of the occupying military power; but all the functions of the hostile government—legislative, executive, or administrative—whether of a general, provincial, or local character, cease under Martial Law, or continue only with the sanction, or, if deemed necessary, the participation of the occupier or invader.

## 7.

Martial Law extends to property, and to persons, whether they are subjects of the enemy or aliens to that government.

## 8.

Consuls, among American and European nations, are not diplomatic agents. Nevertheless, their offices and persons will be subjected to Martial Law in cases of urgent necessity only; their

property and business are not exempted. Any delinquency they commit against the established military rule may be punished as in the case of any other inhabitant, and such punishment furnishes no reasonable ground for international complaint.

## 9.

The functions of Ambassadors, Ministers, or other diplomatic agents, accredited by neutral powers to the hostile government, cease, so far as regards the displaced government; but the conquering or occupying power usually recognizes them as temporarily accredited to itself.

## 10.

Martial Law affects chiefly the police and collection of public revenue and taxes, whether imposed by the expelled government or by the invader, and refers mainly to the support and efficiency of the army, its safety, and the safety of its operations.

## 11.

The law of war does not only disclaim all cruelty and bad faith concerning engagements concluded with the enemy during the war, but also the breaking of stipulations solemnly contracted by the belligerents in time of peace, and avowedly intended to remain in force in case of war between the contracting powers.

It disclaims all extortions and other transactions for individual gain; all acts of private revenge, or connivance at such acts.

Offenses to the contrary shall be severely punished, and especially so if committed by officers.

## 12.

Whenever feasible, Martial Law is carried out in cases of individual offenders by Military Courts; but sentences of death shall be executed only with the approval of the chief executive, provided the urgency of the case does not require a speedier execution, and then only with the approval of the chief commander.

## 13.

Military jurisdiction is of two kinds: First, that which is conferred and defined by statute; second, that which is derived from the common law of war. Military offenses under the statute law must be tried in the manner therein directed; but military offenses which do not come within the statute must be tried and punished under the common law of war. The character of the courts which exercise these jurisdictions depends upon the local laws of each particular country.

In the armies of the United States the first is exercised by courts-martial, while cases which do not come within the "Rules and Articles of War," or the jurisdiction conferred by statute on courts-martial, are tried by military commissions.

## 14.

Military necessity, as understood by modern civilized nations, consists in the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war.

## 15. •

Military necessity admits of all direct destruction of life or limb of *armed* enemies, and of other persons whose destruction is incidentally *unavoidable* in the armed contests of the war; it allows of the capturing of every armed enemy, and every enemy of importance to the hostile government, or of peculiar danger to the captor; it allows of all destruction of property, and obstruction of the ways and channels of traffic, travel, or communication, and of all withholding of sustenance or means of life from the enemy; of the appropriation of whatever an enemy's country affords necessary for the subsistence and safety of the army, and of such deception as does not involve the breaking of good faith either positively pledged, regarding agreements entered into during the war, or supposed by the modern law of war to exist. Men who take up arms against one another in public war do not cease on this account to be moral beings, responsible to one another and to God.

## 16.

Military necessity does not admit of cruelty—that is, the infliction of suffering for the sake of suffering or for revenge, nor of maiming or wounding except in fight, nor of torture to extort confessions. It does not admit of the use of poison in any way, nor of the wanton devastation of a district. It admits of deception, but disclaims acts of perfidy; and, in general, military necessity does not include any act of hostility which makes the return to peace unnecessarily difficult.

## 17.

War is not carried on by arms alone. It is lawful to starve the hostile belligerent, armed or unarmed, so that it leads to the speedier subjection of the enemy.

## 18.

When a commander of a besieged place expels the noncombatants, in order to lessen the number of those who consume his stock of provisions, it is lawful, though an extreme measure, to drive them back, so as to hasten on the surrender.

## 19.

Commanders, whenever admissible, inform the enemy of their intention to bombard a place, so that the noncombatants, and especially the women and children, may be removed before the bombardment commences. But it is no infraction of the common

law of war to omit thus to inform the enemy. Surprise may be a necessity.

20.

Public war is a state of armed hostility between sovereign nations or governments. It is a law and requisite of civilized existence that men live in political, continuous societies, forming organized units, called states or nations, whose constituents bear, enjoy, and suffer, advance, and retrograde together, in peace and in war.

21.

The citizen or native of a hostile country is thus an enemy, as one of the constituents of the hostile state or nation, and as such is subjected to the hardships of the war.

22.

Nevertheless, as civilization has advanced during the last centuries, so has likewise steadily advanced, especially in war on land, the distinction between the private individual belonging to a hostile country and the hostile country itself, with its men in arms. The principle has been more and more acknowledged that the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will admit.

23.

Private citizens are no longer murdered, enslaved, or carried off to distant parts, and the inoffensive individual is as little disturbed in his private relations as the commander of the hostile troops can afford to grant in the overruling demands of a vigorous war.

24.

The almost universal rule in remote times was, and continues to be with barbarous armies, that the private individual of the hostile country is destined to suffer every privation of liberty and protection, and every disruption of family ties. Protection was, and still is with uncivilized people, the exception.

25.

In modern regular wars of the Europeans, and their descendants in other portions of the globe, protection of the inoffensive citizen of the hostile country is the rule; privation and disturbance of private relations are the exceptions.

26.

Commanding generals may cause the magistrates and civil officers of the hostile country to take the oath of temporary allegiance or an oath of fidelity to their own victorious government or rulers, and they may expel every one who declines to do so. But whether they do so or not, the people and their civil officers owe strict obedience

to them as long as they hold sway over the district or country, at the peril of their lives.

## 27.

The law of war can no more wholly dispense with retaliation than can the law of nations, of which it is a branch. Yet civilized nations acknowledge retaliation as the sternest feature of war. A reckless enemy often leaves to his opponent no other means of securing himself against the repetition of barbarous outrage.

## 28.

Retaliation will, therefore, never be resorted to as a measure of mere revenge, but only as a means of protective retribution, and moreover, cautiously and unavoidably; that is to say, retaliation shall only be resorted to after careful inquiry into the real occurrence and the character of the misdeeds that may demand retribution.

Unjust or inconsiderate retaliation removes the belligerents farther and farther from the mitigating rules of regular war, and by rapid steps leads them nearer to the internecine wars of savages.

## 29.

Modern times are distinguished from earlier ages by the existence, at one and the same time, of many nations and great governments related to one another in close intercourse.

Peace is their normal condition; war is the exception. The ultimate object of all modern war is a renewed state of peace.

The more vigorously wars are pursued the better it is for humanity. Sharp wars are brief.

## 30.

Ever since the formation and coexistence of modern nations, and ever since wars have become great national wars, war has come to be acknowledged not to be its own end, but the means to obtain great ends of state, or to consist in defense against wrong; and no conventional restriction of the modes adopted to injure the enemy is any longer admitted; but the law of war imposes many limitations and restrictions on principles of justice, faith, and honor.

## SECTION II.

Public and private property of the enemy—Protection of persons, and especially of women; of religion, the arts and sciences—Punishment of crimes against the inhabitants of hostile countries.

## 31.

A victorious army appropriates all public money, seizes all public movable property until further direction by its government, and sequesters for its own benefit or of that of its government all the revenues of real property belonging to the hostile government or nation. The title to such real property remains in abeyance during military occupation, and until the conquest is made complete.

**32.**

A victorious army, by the martial power inherent in the same, may suspend, change, or abolish, as far as the martial power extends, the relations which arise from the services due, according to the existing laws of the invaded country, from one citizen, subject, or native of the same to another.

The commander of the army must leave it to the ultimate treaty of peace to settle the permanency of this change.

**33.**

It is no longer considered lawful—on the contrary, it is held to be a serious breach of the law of war—to force the subjects of the enemy into the service of the victorious government, except the latter should proclaim, after a fair and complete conquest of the hostile country or district, that it is resolved to keep the country, district, or place permanently as its own and make it a portion of its own country.

**34.**

As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning or observatories, museums of the fine arts, or of a scientific character—such property is not to be considered public property in the sense of paragraph 31; but it may be taxed or used when the public service may require it.

**35.**

Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded.

**36.**

If such works of art, libraries, collections, or instruments belonging to a hostile nation or government, can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the ensuing treaty of peace.

In no case shall they be sold or given away, if captured by the armies of the United States, nor shall they ever be privately appropriated, or wantonly destroyed or injured.

**37.**

The United States acknowledge and protect, in hostile countries occupied by them, religion and morality; strictly private property; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

This rule does not interfere with the right of the victorious invader to tax the people or their property, to levy forced loans, to billet soldiers, or to appropriate property, especially houses, lands, boats or ships, and churches, for temporary and military uses.

## 38.

Private property, unless forfeited by crimes or by offenses of the owner, can be seized only by way of military necessity, for the support or other benefit of the army or of the United States.

If the owner has not fled, the commanding officer will cause receipts to be given, which may serve the spoliated owner to obtain indemnity.

## 39.

The salaries of civil officers of the hostile government who remain in the invaded territory, and continue the work of their office, and can continue it according to the circumstances arising out of the war—such as judges, administrative or police officers, officers of city or communal governments—are paid from the public revenue of the invaded territory, until the military government has reason wholly or partially to discontinue it. Salaries or incomes connected with purely honorary titles are always stopped.

## 40.

There exists no law or body of authoritative rules of action between hostile armies, except that branch of the law of nature and nations which is called the law and usages of war on land.

## 41.

All municipal law of the ground on which the armies stand, or of the countries to which they belong, is silent and of no effect between armies in the field.

## 42.

Slavery, complicating and confounding the ideas of property, (that is of a *thing*), and of personality, (that is of *humanity*), exists according to municipal or local law only. The law of nature and nations has never acknowledged it. The digest of the Roman law enacts the early dictum of the pagan jurist, that “so far as the law of nature is concerned, all men are equal.” Fugitives escaping from a country in which they were slaves, villains, or serfs, into another country, have, for centuries past, been held free and acknowledged free by judicial decisions of European countries, even though the municipal law of the country in which the slave had taken refuge acknowledged slavery within its own dominions.

## 43.

Therefore, in a war between the United States and a belligerent which admits of slavery, if a person held in bondage by that belligerent be captured by or come as a fugitive under the protection of



the military forces of the United States, such person is immediately entitled to the rights and privileges of a freeman. To return such person into slavery would amount to enslaving a free person, and neither the United States nor any officer under their authority can enslave any human being. Moreover, a person so made free by the law of war is under the shield of the law of nations, and the former owner or State can have, by the law of postliminy, no belligerent lien or claim of service.

## 44.

All wanton violence committed against persons in the invaded country, all destruction of property not commanded by the authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death, or such other severe punishment as may seem adequate for the gravity of the offense.

A soldier, officer or private, in the act of committing such violence, and disobeying a superior ordering him to abstain from it, may be lawfully killed on the spot by such superior.

## 45.

All captures and booty belong, according to the modern law of war, primarily to the government of the captor.

Prize money, whether on sea or land, can now only be claimed under local law.

## 46.

Neither officers nor soldiers are allowed to make use of their position or power in the hostile country for private gain, not even for commercial transactions otherwise legitimate. Offenses to the contrary committed by commissioned officers will be punished with cashiering or such other punishment as the nature of the offense may require; if by soldiers, they shall be punished according to the nature of the offense.

## 47.

Crimes punishable by all penal codes, such as arson, murder, maiming, assaults, highway robbery, theft, burglary, fraud, forgery, and rape, if committed by an American soldier in a hostile country against its inhabitants, are not only punishable as at home, but in all cases in which death is not inflicted, the severer punishment shall be preferred.

## SECTION III.

**Deserters—Prisoners of war—Hostages—Booty on the battle-field.**

## 48.

Deserters from the American Army, having entered the service of the enemy, suffer death if they fall again into the hands of the United States, whether by capture, or being delivered up to the

American Army; and if a deserter from the enemy, having taken service in the Army of the United States, is captured by the enemy, and punished by them with death or otherwise, it is not a breach against the law and usages of war, requiring redress or retaliation.

## 49.

A prisoner of war is a public enemy armed or attached to the hostile army for active aid, who has fallen into the hands of the captor, either fighting or wounded, on the field or in the hospital, by individual surrender or by capitulation.

All soldiers, of whatever species of arms; all men who belong to the rising *en masse* of the hostile country; all those who are attached to the army for its efficiency and promote directly the object of the war, except such as are hereinafter provided for; all disabled men or officers on the field or elsewhere, if captured; all enemies who have thrown away their arms and ask for quarter, are prisoners of war, and as such exposed to the inconveniences as well as entitled to the privileges of a prisoner of war.

## 50.

Moreover, citizens who accompany an army for whatever purpose, such as sutlers, editors, or reporters of journals, or contractors, if captured, may be made prisoners of war, and be detained as such.

The monarch and members of the hostile reigning family, male or female, the chief, and chief officers of the hostile government, its diplomatic agents, and all persons who are of particular and singular use and benefit to the hostile army or its government, are, if captured on belligerent ground, and if unprovided with a safe conduct granted by the captor's government, prisoners of war.

## 51.

If the people of that portion of an invaded country which is not yet occupied by the enemy, or of the whole country, at the approach of a hostile army, rise, under a duly authorized levy, *en masse* to resist the invader, they are now treated as public enemies, and, if captured, are prisoners of war.

## 52.

No belligerent has the right to declare, that he will treat every captured man in arms of a levy *en masse* as a brigand or bandit.

If, however, the people of a country, or any portion of the same, already occupied by an army, rise against it, they are violators of the laws of war, and are not entitled to their protection.

## 53.

The enemy's chaplains, officers of the medical staff, apothecaries, hospital nurses and servants, if they fall into the hands of the American Army, are not prisoners of war, unless the commander has reasons to retain them. In this latter case, or if, at their own

desire, they are allowed to remain with their captured companions, they are treated as prisoners of war, and may be exchanged if the commander sees fit.

## 54.

A hostage is a person accepted as a pledge for the fulfillment of an agreement concluded between belligerents during the war, or in consequence of a war. Hostages are rare in the present age.

## 55.

If a hostage is accepted, he is treated like a prisoner of war, according to rank and condition, as circumstances may admit.

## 56.

A prisoner of war is subject to no punishment for being a public enemy, nor is any revenge wreaked upon him by the intentional infliction of any suffering, or disgrace, by cruel imprisonment, want of food, by mutilation, death, or any other barbarity.

## 57.

So soon as a man is armed by a sovereign government and takes the soldier's oath of fidelity, he is a belligerent; his killing, wounding, or other warlike acts are not individual crimes or offenses. No belligerent has a right to declare that enemies of a certain class, color, or condition, when properly organized as soldiers, will not be treated by him as public enemies.

## 58.

The law of nations knows of no distinction of color, and if an enemy of the United States should enslave and sell any captured persons of their army, it would be a case for the severest retaliation, if not redressed upon complaint.

The United States can not retaliate by enslavement; therefore death must be the retaliation for this crime against the law of nations.

## 59.

A prisoner of war remains answerable for his crimes committed against the captor's army or people, committed before he was captured, and for which he has not been punished by his own authorities.

All prisoners of war are liable to the infliction of retaliatory measures.

## 60.

It is against the usage of modern war to resolve, in hatred and revenge, to give no quarter. No body of troops has the right to declare that it will not give, and therefore will not expect, quarter; but a commander is permitted to direct his troops to give no quarter, in great straits, when his own salvation makes it *impossible* to cumber himself with prisoners.

## 61.

Troops that give no quarter have no right to kill enemies already disabled on the ground, or prisoners captured by other troops.

## 62.

All troops of the enemy known or discovered to give no quarter in general, or to any portion of the army, receive none.

## 63.

Troops who fight in the uniform of their enemies, without any plain, striking, and uniform mark of distinction of their own, can expect no quarter.

## 64.

If American troops capture a train containing uniforms of the enemy, and the commander considers it advisable to distribute them for use among his men, some striking mark or sign must be adopted to distinguish the American soldier from the enemy.

## 65.

The use of the enemy's national standard, flag, or other emblem of nationality, for the purpose of deceiving the enemy in battle, is an act of perfidy by which they lose all claim to the protection of the laws of war.

## 66.

Quarter having been given to an enemy by American troops, under a misapprehension of his true character, he may, nevertheless, be ordered to suffer death if, within three days after the battle, it be discovered that he belongs to a corps which gives no quarter.

## 67.

The law of nations allows every sovereign government to make war upon another sovereign state, and, therefore, admits of no rules or laws different from those of regular warfare, regarding the treatment of prisoners of war, although they may belong to the army of a government which the captor may consider as a wanton and unjust assailant.

## 68.

Modern wars are not internecine wars, in which the killing of the enemy is the object. The destruction of the enemy in modern war, and, indeed, modern war itself, are means to obtain that object of the belligerent which lies beyond the war.

Unnecessary or revengeful destruction of life is not lawful.

## 69.

Outposts, sentinels, or pickets are not to be fired upon, except to drive them in, or when a positive order, special or general, has been issued to that effect.

## 70.

The use of poison in any manner, be it to poison wells, or food, or arms, is wholly excluded from modern warfare. He that uses it puts himself out of the pale of the law and usages of war.

## 71.

Whoever intentionally inflicts additional wounds on an enemy already wholly disabled, or kills such an enemy, or who orders or encourages soldiers to do so, shall suffer death, if duly convicted, whether he belongs to the Army of the United States, or is an enemy captured after having committed his misdeed.

## 72.

Money and other valuables on the person of a prisoner, such as watches or jewelry, as well as extra clothing, are regarded by the American Army as the private property of the prisoner, and the appropriation of such valuables or money is considered dishonorable, and is prohibited.

Nevertheless, if *large* sums are found upon the persons of prisoners, or in their possession, they shall be taken from them, and the surplus, after providing for their own support, appropriated for the use of the army, under the direction of the commander, unless otherwise ordered by the government. Nor can prisoners claim, as private property, large sums found and captured in their train, although they have been placed in the private luggage of the prisoners.

## 73.

All officers, when captured, must surrender their side arms to the captor. They may be restored to the prisoner in marked cases, by the commander, to signalize admiration of his distinguished bravery or approbation of his humane treatment of prisoners before his capture. The captured officer to whom they may be restored can not wear them during captivity.

## 74.

A prisoner of war, being a public enemy, is the prisoner of the government, and not of the captor. No ransom can be paid by a prisoner of war to his individual captor or to any officer in command. The government alone releases captives, according to rules prescribed by itself.

## 75.

Prisoners of war are subject to confinement or imprisonment such as may be deemed necessary on account of safety, but they are to be subjected to no other intentional suffering or indignity. The confinement and mode of treating a prisoner may be varied during his captivity, according to the demands of safety.

## 76.

Prisoners of war shall be fed upon plain and wholesome food, whenever practicable, and treated with humanity.

They may be required to work for the benefit of the captor's government, according to their rank and condition.

## 77.

A prisoner of war who escapes may be shot or otherwise killed in his flight; but neither death nor any other punishment shall be inflicted upon him simply for his attempt to escape, which the law of war does not consider a crime. Stricter means of security shall be used after an unsuccessful attempt to escape.

If, however, a conspiracy is discovered, the purpose of which is a united or general escape, the conspirators may be rigorously punished, even with death; and capital punishment may also be inflicted upon prisoners of war discovered to have plotted rebellion against the authorities of the captors, whether in union with fellow prisoners or other persons.

## 78.

If prisoners of war, having given no pledge nor made any promise on their honor, forcibly or otherwise escape, and are captured again in battle after having rejoined their own army, they shall not be punished for their escape, but shall be treated as simple prisoners of war, although they will be subjected to stricter confinement.

## 79.

Every captured wounded enemy shall be medically treated, according to the ability of the medical staff.

## 80.

Honorable men, when captured, will abstain from giving to the enemy information concerning their own army, and the modern law of war permits no longer the use of any violence against prisoners in order to extort the desired information or to punish them for having given false information.

## SECTION IV.

**Partisans—Armed enemies not belonging to the hostile army—Scouts—Armed prowlers—War-rebels.**

## 81.

Partisans are soldiers armed and wearing the uniform of their army, but belonging to a corps which acts detached from the main body for the purpose of making inroads into the territory occupied by the enemy. If captured, they are entitled to all the privileges of the prisoner of war.

**82.**

Men, or squads of men, who commit hostilities, whether by fighting, or inroads for destruction or plunder, or by raids of any kind, without commission, without being part and portion of the organized hostile army, and without sharing continuously in the war, but who do so with intermitting returns to their homes and avocations, or with the occasional assumption of the semblance of peaceful pursuits, divesting themselves of the character or appearance of soldiers—such men, or squads of men, are not public enemies, and, therefore, if captured, are not entitled to the privileges of prisoners of war, but shall be treated summarily as highway robbers or pirates.

**83.**

Scouts, or single soldiers, if disguised in the dress of the country or in the uniform of the army hostile to their own, employed in obtaining information, if found within or lurking about the lines of the captor, are treated as spies, and suffer death.

**84.**

Armed prowlers, by whatever names they may be called, or persons of the enemy's territory, who steal within the lines of the hostile army for the purpose of robbing, killing, or of destroying bridges, roads, or canals, or of robbing or destroying the mail, or of cutting the telegraph wires, are not entitled to the privileges of the prisoner of war.

**85.**

War-rebels are persons within an occupied territory who rise in arms against the occupying or conquering army, or against the authorities established by the same. If captured, they may suffer death, whether they rise singly, in small or large bands, and whether called upon to do so by their own, but expelled, government or not. They are not prisoners of war; nor are they if discovered and secured before their conspiracy has matured to an actual rising or armed violence.

**SECTION V.**

**Safe-conduct—Spies—War-traitors—Captured messengers—Abuse of the flag of truce.**

**86.**

All intercourse between the territories occupied by belligerent armies, whether by traffic, by letter, by travel, or in any other way, ceases. This is the general rule, to be observed without special proclamation.

Exceptions to this rule, whether by safe-conduct or permission to trade on a small or large scale, or by exchanging mails, or by travel from one territory into the other, can take place only according to

agreement approved by the government, or by the highest military authority.

Contraventions of this rule are highly punishable.

#### 87.

Ambassadors, and all other diplomatic agents of neutral powers, accredited to the enemy, may receive safe-conducts through the territories occupied by the belligerents, unless there are military reasons to the contrary, and unless they may reach the place of their destination conveniently by another route. It implies no international affront if the safe-conduct is declined. Such passes are usually given by the supreme authority of the state, and not by subordinate officers.

#### 88.

A spy is a person who secretly, in disguise or under false pretense, seeks information with the intention of communicating it to the enemy.

The spy is punishable with death by hanging by the neck, whether or not he succeed in obtaining the information or in conveying it to the enemy.

#### 89.

If a citizen of the United States obtains information in a legitimate manner and betrays it to the enemy, be he a military or civil officer, or a private citizen, he shall suffer death.

#### 90.

A traitor under the law of war, or a war-traitor, is a person in a place or district under martial law who, unauthorized by the military commander, gives information of any kind to the enemy, or holds intercourse with him.

#### 91.

The war-traitor is always severely punished. If his offense consists in betraying to the enemy anything concerning the condition, safety, operations, or plans of the troops holding or occupying the place or district, his punishment is death.

#### 92.

If the citizen or subject of a country or place invaded or conquered gives information to his own government, from which he is separated by the hostile army, or to the army of his government, he is a war-traitor, and death is the penalty of his offense.

#### 93.

All armies in the field stand in need of guides, and impress them if they can not obtain them otherwise.

#### 94.

No person having been forced by the enemy to serve as guide is punishable for having done so.



## 95.

If a citizen of a hostile and invaded district voluntarily serves as a guide to the enemy, or offers to do so, he is deemed a war-traitor, and shall suffer death.

## 96.

A citizen serving voluntarily as a guide against his own country commits treason, and will be dealt with according to the law of his country.

## 97.

Guides, when it is clearly proved that they have misled intentionally, may be put to death.

## 98.

All unauthorized or secret communication with the enemy is considered treasonable by the law of war.

Foreign residents in an invaded or occupied territory, or foreign visitors in the same, can claim no immunity from this law. They may communicate with foreign parts, or with the inhabitants of the hostile country, so far as the military authority permits, but no further. Instant expulsion from the occupied territory would be the very least punishment for the infraction of this rule.

## 99.

A messenger carrying written dispatches or verbal messages from one portion of the army, or from a besieged place, to another portion of the same army, or its government, if armed, and in the uniform of his army, and if captured, while doing so, in the territory occupied by the enemy, is treated by the captor as a prisoner of war. If not in uniform, nor a soldier, the circumstances connected with his capture must determine the disposition that shall be made of him.

## 100.

A messenger or agent who attempts to steal through the territory occupied by the enemy, to further, in any manner, the interests of the enemy, if captured, is not entitled to the privileges of the prisoner of war, and may be dealt with according to the circumstances of the case.

## 101.

While deception in war is admitted as a just and necessary means of hostility, and is consistent with honorable warfare, the common law of war allows even capital punishment for clandestine or treacherous attempts to injure an enemy, because they are so dangerous, and it is so difficult to guard against them.

## 102.

The law of war, like the criminal law regarding other offenses, makes no difference on account of the difference of sexes, concerning the spy, the war-traitor, or the war-rebel.

## 103.

Spies, war-traitors, and war-rebels are not exchanged according to the common law of war. The exchange of such persons would require a special cartel, authorized by the government, or, at a great distance from it, by the chief commander of the army in the field.

## 104.

A successful spy or war-traitor, safely returned to his own army, and afterwards captured as an enemy, is not subject to punishment for his acts as a spy or war-traitor, but he may be held in closer custody as a person individually dangerous.

## SECTION VI.

**Exchange of prisoners—Flags of truce—Flags of protection.**

## 105.

Exchanges of prisoners take place—number for number—rank for rank—wounded for wounded—with added condition for added condition—such, for instance, as not to serve for a certain period.

## 106.

In exchanging prisoners of war, such numbers of persons of inferior rank may be substituted as an equivalent for one of superior rank as may be agreed upon by cartel, which requires the sanction of the government, or of the commander of the army in the field.

## 107.

A prisoner of war is in honor bound truly to state to the captor his rank; and he is not to assume a lower rank than belongs to him, in order to cause a more advantageous exchange, nor a higher rank, for the purpose of obtaining better treatment.

Offenses to the contrary have been justly punished by the commanders of released prisoners, and may be good cause for refusing to release such prisoners.

## 108.

The surplus number of prisoners of war remaining after an exchange has taken place is sometimes released either for the payment of a stipulated sum of money, or, in urgent cases, of provision, clothing, or other necessities.

Such arrangement, however, requires the sanction of the highest authority.

## 109.

The exchange of prisoners of war is an act of convenience to both belligerents. If no general cartel has been concluded, it can not be demanded by either of them. No belligerent is obliged to exchange prisoners of war.

A cartel is voidable as soon as either party has violated it.

## 110.

No exchange of prisoners shall be made except after complete capture, and after an accurate account of them, and a list of the captured officers, has been taken.

## 111.

The bearer of a flag of truce can not insist upon being admitted. He must always be admitted with great caution. Unnecessary frequency is carefully to be avoided.

## 112.

If the bearer of a flag of truce offer himself during an engagement, he can be admitted as a very rare exception only. It is no breach of good faith to retain such flag of truce, if admitted during the engagement. Firing is not required to cease on the appearance of a flag of truce in battle.

## 113.

If the bearer of a flag of truce, presenting himself during an engagement, is killed or wounded, it furnishes no ground of complaint whatever.

## 114.

If it be discovered, and fairly proved, that a flag of truce has been abused for surreptitiously obtaining military knowledge, the bearer of the flag thus abusing his sacred character is deemed a spy.

So sacred is the character of a flag of truce, and so necessary is its sacredness, that while its abuse is an especially heinous offense, great caution is requisite, on the other hand, in convicting the bearer of a flag of truce as a spy.

## 115.

It is customary to designate by certain flags (usually yellow) the hospitals in places which are shelled, so that the besieging enemy may avoid firing on them. The same has been done in battles when hospitals are situated within the field of the engagement.

## 116.

Honorable belligerents often request that the hospitals within the territory of the enemy may be designated, so that they may be spared.

An honorable belligerent allows himself to be guided by flags or signals of protection as much as the contingencies and the necessities of the fight will permit.

## 117.

It is justly considered an act of bad faith, of infamy or fiendishness, to deceive the enemy by flags of protection. Such act of bad faith may be good cause for refusing to respect such flags.

## 118.

The besieging belligerent has sometimes requested the besieged to designate the buildings containing collections of works of art, scientific museums, astronomical observatories, or precious libraries, so that their destruction may be avoided as much as possible.

## SECTION VII.

## The parole.

## 119.

Prisoners of war may be released from captivity by exchange, and, under certain circumstances, also by parole.

## 120.

The term "parole" designates the pledge of individual good faith and honor to do, or to omit doing, certain acts after he who gives his parole shall have been dismissed, wholly or partially, from the power of the captor.

## 121.

The pledge of the parole is always an individual, but not a private act.

## 122.

The parole applies chiefly to prisoners of war whom the captor allows to return to their country, or to live in greater freedom within the captor's country or territory, on conditions stated in the parole.

## 123.

Release of prisoners of war by exchange is the general rule; release by parole is the exception.

## 124.

Breaking the parole is punished with death when the person breaking the parole is captured again.

Accurate lists, therefore, of the paroled persons must be kept by the belligerents.

## 125.

When paroles are given and received there must be an exchange of two written documents, in which the name and rank of the paroled individuals are accurately and truthfully stated.

## 126.

Commissioned officers only are allowed to give their parole, and they can give it only with the permission of their superior, as long as a superior in rank is within reach.

## 127.

No noncommissioned officer or private can give his parole except through an officer. Individual paroles not given through an officer

are not only void, but subject the individuals giving them to the punishment of death as deserters. The only admissible exception is where individuals, properly separated from their commands, have suffered long confinement without the possibility of being paroled through an officer.

## 128.

No paroling on the battlefield; no paroling of entire bodies of troops after a battle; and no dismissal of large numbers of prisoners, with a general declaration that they are paroled, is permitted or of any value.

## 129.

In capitulations for the surrender of strong places or fortified camps the commanding officer, in cases of urgent necessity, may agree that the troops under his command shall not fight again during the war, unless exchanged.

## 130.

The usual pledge given in the parole is not to serve during the existing war, unless exchanged.

This pledge refers only to the active service in the field, against the paroling belligerent or his allies actively engaged in the same war. These cases of breaking the parole are patent acts, and can be visited with the punishment of death; but the pledge does not refer to internal service, such as recruiting or drilling the recruits, fortifying places not besieged, quelling civil commotions, fighting against belligerents unconnected with the paroling belligerents, or to civil or diplomatic service for which the paroled officer may be employed.

## 131.

If the government does not approve of the parole, the paroled officer must return into captivity, and should the enemy refuse to receive him, he is free of his parole.

## 132.

A belligerent government may declare, by a general order, whether it will allow paroling, and on what conditions it will allow it. Such order is communicated to the enemy.

## 133.

No prisoner of war can be forced by the hostile government to parole himself, and no government is obliged to parole prisoners of war, or to parole all captured officers, if it paroles any. As the pledging of the parole is an individual act, so is paroling, on the other hand, an act of choice on the part of the belligerent.

## 134.

The commander of an occupying army may require of the civil officer of the enemy, and of its citizens, any pledge he may consider necessary for the safety or security of his army, and upon their failure to give it he may arrest, confine, or detain them.

## SECTION VIII.

**Armistice—Capitulation.****135.**

An armistice is the cessation of active hostilities for a period agreed between belligerents. It must be agreed upon in writing, and duly ratified by the highest authorities of the contending parties.

**136.**

If an armistice be declared, without conditions, it extends no further than to require a total cessation of hostilities along the front of both belligerents.

If conditions be agreed upon, they should be clearly expressed, and must be rigidly adhered to by both parties. If either party violates any express condition, the armistice may be declared null and void by the other.

**137.**

An armistice may be general, and valid for all points and lines of the belligerents; or special, that is, referring to certain troops or certain localities only.

An armistice may be concluded for a definite time; or for an indefinite time, during which either belligerent may resume hostilities on giving the notice agreed upon to the other.

**138.**

The motives which induce the one or the other belligerent to conclude an armistice, whether it be expected to be preliminary to a treaty of peace, or to prepare during the armistice for a more vigorous prosecution of the war, does in no way affect the character of the armistice itself.

**139.**

An armistice is binding upon the belligerents from the day of the agreed commencement; but the officers of the armies are responsible from the day only when they receive official information of its existence.

**140.**

Commanding officers have the right to conclude armistices binding on the district over which their command extends, but such armistice is subject to the ratification of the superior authority, and ceases so soon as it is made known to the enemy that the armistice is not ratified, even if a certain time for the elapsing between giving notice of cessation and the resumption of hostilities should have been stipulated for.

**141.**

It is incumbent upon the contracting parties of an armistice to stipulate what intercourse of persons or traffic between the inhabitants of the territories occupied by the hostile armies shall be allowed, if any.

If nothing is stipulated the intercourse remains suspended, as during actual hostilities.

142.

An armistice is not a partial or a temporary peace; it is only the suspension of military operations to the extent agreed upon by the parties.

143.

When an armistice is concluded between a fortified place and the army besieging it, it is agreed by all the authorities on this subject that the besieger must cease all extension, perfection, or advance of his attacking works as much so as from attacks by main force.

But as there is a difference of opinion among martial jurists, whether the besieged have the right to repair breaches or to erect new works of defense within the place during the armistice, this point should be determined by express agreement between the parties.

144.

So soon as a capitulation is signed, the capitulator has no right to demolish, destroy, or injure the works, arms, stores, or ammunition, in his possession, during the time which elapses between the signing and the execution of the capitulation, unless otherwise stipulated in the same.

145.

When an armistice is clearly broken by one of the parties, the other party is released from all obligation to observe it.

146.

Prisoners taken in the act of breaking an armistice must be treated as prisoners of war, the officer alone being responsible who gives the order for such a violation of an armistice. The highest authority of the belligerent aggrieved may demand redress for the infraction of an armistice.

147.

Belligerents sometimes conclude an armistice while their plenipotentiaries are met to discuss the conditions of a treaty of peace; but plenipotentiaries may meet without a preliminary armistice; in the latter case, the war is carried on without any abatement.

## SECTION IX.

### **Assassination.**

148.

The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government, an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such intentional outlawry; on the contrary, it abhors such outrage. The

sternest retaliation should follow the murder committed in consequence of such proclamation, made by whatever authority. Civilized nations look with horror upon offers of rewards for the assassination of enemies as relapses into barbarism.

## SECTION X.

### **Insurrection—Civil War—Rebellion.**

#### **149.**

Insurrection is the rising of people in arms against their government, or a portion of it, or against one or more of its laws, or against an officer or officers of the government. It may be confined to mere armed resistance, or it may have greater ends in view.

#### **150.**

Civil war is war between two or more portions of a country or state, each contending for the mastery of the whole, and each claiming to be the legitimate government. The term is also sometimes applied to war of rebellion, when the rebellious provinces or portions of the state are contiguous to those containing the seat of government.

#### **151.**

The term rebellion is applied to an insurrection of large extent, and is usually a war between the legitimate government of a country and portions of provinces of the same who seek to throw off their allegiance to it and set up a government of their own.

#### **152.**

When humanity induces the adoption of the rules of regular war toward rebels, whether the adoption is partial or entire, it does in no way whatever imply a partial or complete acknowledgment of their government, if they have set up one, or of them, as an independent and sovereign power. Neutrals have no right to make the adoption of the rules of war by the assailed government toward rebels the ground of their own acknowledgment of the revolted people as an independent power.

#### **153.**

Treating captured rebels as prisoners of war, exchanging them, concluding of cartels, capitulations, or other warlike agreements with them; addressing officers of a rebel army by the rank they may have in the same; accepting flags of truce; or, on the other hand, proclaiming martial law in their territory, or levying war taxes or forced loans, or doing any other act sanctioned or demanded by the law and usages of public war between sovereign belligerents, neither proves nor establishes an acknowledgment of the rebellious people, or of the government which they may have erected, as a public or sovereign power. Nor does the adoption of the rules of



war toward rebels imply an engagement with them extending beyond the limits of these rules. It is victory in the field that ends the strife and settles the future relations between the contending parties.

## 154.

Treating, in the field, the rebellious enemy according to the law and usages of war has never prevented the legitimate government from trying the leaders of the rebellion or chief rebels for high treason, and from treating them accordingly, unless they are included in a general amnesty.

## 155.

All enemies in regular war are divided into two general classes—that is to say, into combatants and noncombatants, or unarmed citizens of the hostile government.

The military commander of the legitimate government, in a war of rebellion, distinguishes between the loyal citizen in the revolted portion of the country and the disloyal citizen. The disloyal citizens may further be classified into those citizens known to sympathize with the rebellion without positively aiding it, and those who, without taking up arms, give positive aid and comfort to the rebellious enemy without being bodily forced thereto.

## 156.

Common justice and plain expediency require that the military commander protect the manifestly loyal citizens, in revolted territories, against the hardships of the war as much as the common misfortune of all war admits.

The commander will throw the burden of the war, as much as lies within his power, on the disloyal citizens of the revolted portion or province, subjecting them to a stricter police than the non-combatant enemies have to suffer in regular war; and if he deems it appropriate, or if his government demands of him that every citizen shall, by an oath of allegiance, or by some other manifest act, declare his fidelity to the legitimate government, he may expel, transfer, imprison, or fine the revolted citizens who refuse to pledge themselves anew as citizens obedient to the law and loyal to the government.

Whether it is expedient to do so, and whether reliance can be placed upon such oaths, the commander or his government have the right to decide.

## 157.

Armed or unarmed resistance by citizens of the United States against the lawful movements of their troops is levying war against the United States, and is therefore treason.



## APPENDIX III.

### CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CERTAIN POWERS, WITH RESPECT TO THE LAWS AND CUSTOMS OF WAR ON LAND.

*Signed at The Hague July 29, 1899.*

*Ratification advised by the Senate March 14, 1902.*

*Ratified by the President of the United States March 19, 1902.*

*Ratifications deposited with the Netherlands Government September 4, 1900.*

*Proclaimed April 11, 1902.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas a Convention with respect to the laws and customs of war on land was concluded and signed on July 29, 1899, by the Plenipotentiaries of the United States of America, Germany, Austria-Hungary, Belgium, Denmark, Spain, Mexico, France, Great Britain and Ireland, Greece, Italy, Japan, Luxemburg, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Servia, Siam, Sweden and Norway, Turkey, and Bulgaria, the original of which Convention, in the French language, is word for word as follows:

[Translation.]

CONVENTION WITH RESPECT TO THE LAWS AND  
CUSTOMS OF WAR ON LAND.

CONVENTION CONCERNANT LES LOIS ET COU-  
TUMES DE LA GUERRE SUR TERRE.

His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain and in His Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse; Sa Majesté l'Empereur d'Autriche, Roi de Bohême etc. et Roi Apostolique de Hongrie; Sa Majesté le Roi des Belges; Sa Majesté le Roi de Danemark; Sa Majesté le Roi d'Espagne et en Son Nom Sa Majesté la Reine-Régente du Royaume; le Président des Etats-Unis d'Amérique; le Président des Etats-Unis Mexicains; le Président de la République Française; Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, Impératrice des Indes; Sa Majesté le Roi des Hellènes; Sa Majesté le Roi d'Italie; Sa Majesté l'Empereur du Japon; Son Altesse Royale le Grand-Duc de Luxemburg, Duc de Nassau; Son Altesse le Prince de Monténégro; Sa Majesté la Reine des Pays-Bas; Sa Majesté Impériale le Shah de Perse; Sa Majesté le Roi de Portugal et des Algarves etc.; Sa Majesté le Roi de Roumanie; Sa

Portugal and of the Algarves etc.; His Majesty the King of Roumania; His Majesty the Emperor of all the Russias; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria.

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is likewise necessary to have regard to cases where an appeal to arms may be caused by events which their solicitude could not avert;

Animated by the desire to serve, even in this extreme hypothesis, the interests of humanity and the ever increasing requirements of civilization;

Thinking it important, with this object, to revise the laws and general customs of war, either with the view of defining them more precisely, or of laying down certain limits for the purpose of modifying their severity as far as possible;

Inspired by these views which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous foresight;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land.

In view of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war so far as military necessities permit, are destined to serve as general rules of conduct for belligerents in their relations with each other and with populations.

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice.

On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military Commanders.

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience;

Majesté l'Empereur de Toutes les Russies; Sa Majesté le Roi de Serbie; Sa Majesté le Roi de Siam; Sa Majesté le Roi de Suède et de Norvège; Sa Majesté l'Empereur des Ottomans et Son Altesse Royale le Prince de Bulgarie

Considérant que, tout en recherchant les moyens de sauvegarder la paix et de prévenir les conflits armés entre les nations, il importe de se préoccuper également du cas où l'appel aux armes serait amené par des événements que Leur sollicitude n'aurait pu détourner;

Animés du désir de servir encore, dans cette hypothèse extrême, les intérêts de l'humanité et les exigences toujours progressives de la civilisation;

Estimant qu'il importe, à cette fin, de reviser les lois et coutumes générales de la guerre, soit dans le but de les définir avec plus de précision, soit afin d'y tracer certaines limites destinées à en restreindre autant que possible les rigueurs;

S'inspirant de ces vues recommandées aujourd'hui, comme il y a vingt-cinq ans, lors de la Conférence de Bruxelles de 1874, par une sage et généreuse prévoyance;

Ont, dans cet esprit, adopté un grand nombre de dispositions qui ont pour objet de définir et de régler les usages de la guerre sur terre.

Selon les vues des Hautes Parties contractantes, ces dispositions, dont la rédaction a été inspirée par le désir de diminuer les maux de la guerre, autant que les nécessités militaires le permettent, sont destinées à servir de règle générale de conduite aux belligérants, dans leurs rapports entre eux et avec les populations.

Il n'a pas été possible toutefois de concerter dès maintenant des stipulations s'étendant à toutes les circonstances qui se présentent dans la pratique.

D'autre part, il ne pouvait entrer dans les intentions des Hautes Parties Contractantes que les cas non prévus fussent, faute de stipulation écrite, laissés à l'appréciation arbitraire de ceux qui dirigent les armées.

En attendant qu'un code plus complet des lois de la guerre puisse être édicté, les Hautes Parties Contractantes jugent opportun de constater que, dans les cas non compris dans les dispositions réglementaires adoptées par Elles, les populations et les belligérants restent sous la sauvegarde et sous l'empire des principes du droit des gens, tels qu'ils résultent des usages établis entre nations civilisées, des lois de l'humanité et des exigences de la conscience publique.

They declare that it is in this sense especially that Articles I and II of the Regulations adopted must be understood;

The High Contracting Parties, desiring to conclude a Convention to this effect, have appointed as their Plenipotentiaries, to wit:

His Majesty the Emperor of Germany, King of Prussia: His Excellency Count de Munster, Prince of Derneburg, His Ambassador at Paris.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary: His Excellency Count R. de Welsersheimb, His Ambassador Extraordinary and Plenipotentiary; Mr. Alexander Okoliczany d'Okoliczna, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Belgians: His Excellency Mr. Auguste Beernaert, His Minister of State, President of the Chamber of Representatives; Count de Grelle Rogier, His Envoy Extraordinary and Minister Plenipotentiary at The Hague; the Chevalier Descamps, Senator.

His Majesty the King of Denmark: His Chamberlain Fr. E. de Bille, His Envoy Extraordinary and Minister Plenipotentiary at London.

His Majesty the King of Spain and in His Name, Her Majesty the Queen Regent of the Kingdom: His Excellency the Duke of Tetuan, formerly Minister for Foreign Affairs; Mr. W. Ramirez de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary at Brussels; Mr. Arthur de Baguer, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United States of America: Mr. Stanford Newel, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United Mexican States: Mr. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Zenil, Minister Resident at Brussels.

The President of the French Republic: Mr. Léon Bourgeois, former President of the Council, former Minister for Foreign Affairs, Member of the Chamber of Deputies; Mr. Georges Bihourd, Envoy Extraordinary and Minister Plenipotentiary at The Hague; the Baron d'Estournelles de Constant, Minister Plenipotentiary, Member of the Chamber of Deputies.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: His Excellency the Right Honorable Baron Pauncefoot of Preston, Member of Her Majesty's Privy Council, Her Ambassador Extraordinary and Plenipotentiary at Wash-

Elles déclarent que c'est dans ce sens que doivent s'entendre notamment les articles un et deux du Règlement adopté:

Les Hautes Parties contractantes désirant conclure une Convention à cet effet ont nommé pour Leurs plénipotentiaires, savoir:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse: Son Excellence le Comte de Münster, Prince de Derneburg, Son Ambassadeur à Paris.

Sa Majesté l'Empereur d'Autriche. Roi de Bohême etc., et Roi Apostolique de Hongrie: Son Excellence le Comte R. de Welsersheimb, Son Ambassadeur extraordinaire et plénipotentiaire. M. Alexandre Okoliczany d'Okoliczna, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté le Roi des Belges: Son Excellence M. Auguste Beernaert, Son Ministre d'Etat, Président de la Chambre des Représentants. M. le Comte De Grelle Rogier, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Chevalier Descamps, Sénateur.

Sa Majesté le Roi de Danemark: Son Chambellan Fr. E. de Bille, Son Envoyé extraordinaire et Ministre plénipotentiaire à Londres.

Sa Majesté le Roi d'Espagne et en Son Nom, Sa Majesté la Reine-Régente du Royaume: Son Excellence le Duc de Tetuan, Ancien Ministre des Affaires Étrangères. M. W. Ramirez de Villa Urrutia, Son Envoyé extraordinaire et Ministre plénipotentiaire à Bruxelles. M. Arthur de Baguer, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Le Président des États-Unis d'Amérique: M. Stanford Newel, Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Le Président des États-Unis Mexicains: M. de Mier, Envoyé extraordinaire et Ministre plénipotentiaire à Paris. M. Zenil, Ministre-Résident à Bruxelles.

Le Président de la République Française: M. Léon Bourgeois, Ancien Président du Conseil, Ancien Ministre des Affaires Étrangères, Membre de la Chambre des Députés. M. Georges Bihourd, Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Baron d'Estournelles de Constant, Ministre plénipotentiaire, Membre de la Chambre des Députés.

Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, Impératrice des Indes: Son Excellence le Très Honorable Baron Pauncefoot de Preston, Membre du Conseil Privé de Sa Majesté, Son Ambassadeur extraordinaire et plénipotentiaire à

ington; Sir Henry Howard, Her Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Hellenes: Mr. N. Delyanni, former President of the Council, former Minister for Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Italy: His Excellency Count Nigra, His Ambassador at Vienna, Senator of the Kingdom; Count A. Zannini, His Envoy Extraordinary and Minister Plenipotentiary at The Hague; Commander Guido Pompilj, Deputy in the Italian Parliament.

His Majesty the Emperor of Japan: Mr. I. Motono, His Envoy Extraordinary and Minister Plenipotentiary at Brussels.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau: His Excellency Mr. Eyschen, His Minister of State, President of the Grand Ducal Government.

His Highness the Prince of Montenegro: His Excellency Mr. de Staal, Privy Councillor, Ambassador of Russia at London.

Her Majesty the Queen of the Netherlands: the Jonkheer A. P. C. van Karnebeek, former Minister of Foreign Affairs, Member of the Second Chamber of the States General; General J. C. C. den Beer Poortugael, former Minister of War, Member of the Council of State; Mr. T. M. C. Asser, Member of the Council of State; Mr. E. N. Rahusen, Member of the First Chamber of the States General.

His Imperial Majesty the Shah of Persia: His Aid-de-camp General Mirza Riza Khan, Arfa-ud-Dovleh, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Stockholm.

His Majesty the King of Portugal and of the Algarves, etc.: Count de Macedo, Peer of the Kingdom, former Minister of Marine and of the Colonies, His Envoy Extraordinary and Minister Plenipotentiary at Madrid; Mr. d'Ornellas et Vasconcellos, Peer of the Kingdom, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg; Count de Selir, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of Roumania: Mr. Alexander Beldiman, His Envoy Extraordinary and Minister Plenipotentiary at Berlin; Mr. Jean N. Papiniu, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the Emperor of all the Russias: His Excellency Mr. de Staal, Privy Councillor, His Ambassador at London; Mr. de Martens, Permanent Member of the Council

Washington. Sir Henry Howard, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté le Roi des Hellènes: M. N. Delyanni, Ancien Président du Conseil, Ancien Ministre des Affaires Étrangères, Son Envoyé extraordinaire et Ministre plénipotentiaire à Paris.

Sa Majesté le Roi d'Italie: Son Excellence le Comte Nigra, Son Ambassadeur à Vienne, Sénateur du Royaume. M. le Comte A. Zannini, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Commandeur Guido Pompilj, Député au Parlement Italien.

Sa Majesté l'Empereur du Japon: M. I. Motono, Son Envoyé extraordinaire et Ministre plénipotentiaire à Bruxelles.

Son Altesse Royale le Grand Duc de Luxemburg, Duc de Nassau: Son Excellence M. Eyschen, Son Ministre d'État, Président du Gouvernement Grand-Ducal.

Son Altesse le Prince de Monténégro: Son Excellence M. le Conseiller Privé Actuel de Staal, Ambassadeur de Russie à Londres.

Sa Majesté la Reine des Pays-Bas: M. le Jonkheer A. P. C. van Karnebeek, Ancien Ministre des Affaires Étrangères, Membre de la Seconde Chambre des États Généraux. M. le Général J. C. C. den Beer Poortugael, Ancien Ministre de la Guerre, Membre du Conseil d'État. M. T. M. C. Asser, Membre du Conseil d'État. M. E. N. Rahusen, Membre de la Première Chambre des États Généraux.

Sa Majesté Impériale le Schah de Perse: Son Aide de Camp Général Mirza Riza Khan, Arfa-ud-Dovleh, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg et à Stockholm.

Sa Majesté le Roi de Portugal et des Algarves, etc.: M. le Comte de Macedo, Pair du Royaume, Ancien Ministre de la Marine et des Colonies, Son Envoyé extraordinaire et Ministre plénipotentiaire à Madrid. M. d'Ornellas et Vasconcellos, Pair du Royaume, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg. M. le Comte de Selir, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté le Roi de Roumanie: M. Alexandre Beldiman, Son Envoyé extraordinaire et Ministre plénipotentiaire à Berlin. M. Jean N. Papiniu, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté l'Empereur de Toutes les Russies: Son Excellence M. le Conseiller Privé Actuel de Staal, Son Ambassadeur à Londres. M. de Martens, Membre Permanent

of the Imperial Ministry of Foreign Affairs, His Privy Councillor; Mr. de Basily, His Councillor of State, Chamberlain, Director of the First Department of the Imperial Ministry for Foreign Affairs.

His Majesty the King of Servia: Mr. Miyatovitch, His Envoy Extraordinary and Minister Plenipotentiary at London and at The Hague.

His Majesty the King of Siam: M. Phya Suriya Nuvatr, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Paris; M. Phya Visuddha Suriyasakti, His Envoy Extraordinary and Minister Plenipotentiary at The Hague and at London.

His Majesty the King of Sweden and Norway: the Baron de Bildt, His Envoy Extraordinary and Minister Plenipotentiary at Rome.

His Majesty the Emperor of the Ottomans: His Excellency Turkhan Pasha, former Minister of Foreign Affairs, Member of His Council of State; Noury Bey, Secretary-General in the Ministry of Foreign Affairs.

His Royal Highness the Prince of Bulgaria: Dr. Dimitri Stancioff, Diplomatic Agent at St. Petersburg; Major Christo Hessapchieff, Military Attaché at Belgrade.

Who, after communication of their full powers, found in good and due form, have agreed on the following:—

#### ARTICLE I.

The High Contracting Parties shall issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the Laws and Customs of War on Land" annexed to the present Convention.

#### ARTICLE II.

The provisions contained in the Regulations mentioned in Article I are only binding on the Contracting Powers, in case of war between two or more of them.

These provisions shall cease to be binding from the time when, in a war between Contracting Powers, a non-Contracting Power joins one of the belligerents.

#### ARTICLE III.

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy, duly certified, shall be sent through the diplomatic channel, to all the Contracting Powers.

du Conseil du Ministère Impérial des Affaires Étrangères, Son Conseiller Privé. Son Conseiller d'État Actuel de Basily, Chambellan, Directeur du Premier Département du Ministère Impérial des Affaires Étrangères.

Sa Majesté le Roi de Serbie: M. Miyatovitch, Son Envoyé extraordinaire et Ministre plénipotentiaire à Londres et à la Haye.

Sa Majesté le Roi de Siam: M. Phya Suriya Nuvatr, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg et à Paris. M. Phya Visuddha Suriyasakti, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye et à Londres.

Sa Majesté le Roi de Suède et de Norvège: M. le Baron de Bildt, Son Envoyé extraordinaire et Ministre plénipotentiaire à Rome.

Sa Majesté l'Empereur des Ottomans: Son Excellence Turkhan-Pacha, Ancien Ministre des Affaires Étrangères, Membre de Son Conseil d'Etat. Noury Bey, Secrétaire-Général au Ministère des Affaires Étrangères.

Son Altesse Royale le Prince de Bulgarie: M. le Dr. Dimitri Stancioff, Agent Diplomatique à St. Pétersbourg. M. le Major Christo Hessapchieff, Attaché Militaire à Belgrade.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

#### ARTICLE 1.

Les Hautes Parties contractantes donneront à leurs forces armées de terre des instructions qui seront conformes au *Règlement concernant les lois et coutumes de la guerre sur terre*, annexé à la présente Convention.

#### ARTICLE 2.

Les dispositions contenues dans le Règlement visé à l'article premier ne sont obligatoires que pour les Puissances contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Ces dispositions cesseront d'être obligatoires du moment où, dans une guerre entre des Puissances contractantes, une Puissance non contractante se joindrait à l'un des belligérants.

#### ARTICLE 3.

La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à la Haye.

Il sera dressé du dépôt de chaque ratification un *procès-verbal*, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances contractantes.

## ARTICLE IV.

Non-Signatory Powers are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification, addressed to the Netherland Government, and by it communicated to all the other Contracting Powers.

## ARTICLE V.

In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation would not take effect until a year after the written notification made to the Netherland Government, and by it at once communicated to all the other Contracting Powers.

This denunciation shall affect only the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at the Hague the 29th July, 1899, in a single copy, which shall be kept in the archives of the Netherland Government, and copies of which, duly certified, shall be delivered to the Contracting Powers through the diplomatic channel.

For Germany:  
(Signed) MUNSTER DERNEBURG.

For Austria-Hungary:  
(Signed) WELSERSHEIMB.  
(Signed) OKOLICSANYI.

For Belgium:  
(Signed) A. BEERNAERT.  
(Signed) CTE. DE GRELLE ROGIER.  
(Signed) CHR. DESCAMPS.

For Denmark:  
(Signed) F. BILLE.

For Spain:  
(Signed) EL DUQUE DE TETUAN.  
(Signed) W. R. DE VILLA URRUTIA.  
(Signed) ARTURO DE BAGUER.

For the United States of America:  
(Signed) STANFORD NEWEL.

For the United Mexican States:  
(Signed) M. DE MIER.  
(Signed) J. ZENIL.

For France:  
(Signed) LÉON BOURGEOIS.  
(Signed) G. BIHOUD.  
(Signed) D'ESTOURNELLES DE CONSTANT.

For Great Britain and Ireland:  
(Signed) PAUNCEFOTE.  
(Signed) HENRY HOWARD.

For Greece:  
(Signed) N. DELYANNI.

## ARTICLE 4.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances contractantes.

## ARTICLE 5.

S'il arrivait qu'une des Hautes Parties contractantes dénonçât la présente Convention, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.

En foi de quoi, les plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à la Haye, le vingt neuf juillet mil huit cent quatre-vingt dix-neuf, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

Pour l'Allemagne:  
(L. s.) MUNSTER DERNEBURG.

Pour l'Autriche-Hongrie:  
(L. s.) WELSERSHEIMB.  
(L. s.) OKOLICSANYI.

Pour la Belgique:  
(L. s.) A. BEERNAERT.  
(L. s.) CTE. DE GRELLE ROGIER.  
(L. s.) CHR. DESCAMPS.

Pour le Danemark:  
(L. s.) F. BILLE.

Pour l'Espagne:  
(L. s.) EL DUQUE DE TETUAN.  
(L. s.) W. R. DE VILLA URRUTIA.  
(L. s.) ARTURO DE BAGUER.

Pour les Etats-Unis d'Amérique:  
(L. s.) STANFORD NEWEL.

Pour les Etats-Unis Mexicains:  
(L. s.) M. DE MIER.  
(L. s.) J. ZENIL.

Pour la France:  
(L. s.) LÉON BOURGEOIS.  
(L. s.) G. BIHOUD.  
(L. s.) D'ESTOURNELLES DE CONSTANT.

Pour la Grande Bretagne et l'Irlande:  
(L. s.) PAUNCEFOTE.  
(L. s.) HENRY HOWARD.

Pour la Grèce:  
(L. s.) N. DELYANNI.



For Italy:	Pour l'Italie:
(Signed) NIGRA.	(L. s.) NIGRA.
(Signed) A. ZANNINI.	(L. s.) A. ZANNINI.
(Signed) G. POMPIJL.	(L. s.) G. POMPIJL.
For Japan:	Pour le Japon:
(Signed) I. MOTONO.	(L. s.) I. MOTONO.
For Luxemburg:	Pour le Luxembourg:
(Signed) EYSCHEN.	(L. s.) EYSCHEN.
For Montenegro:	Pour le Monténégro:
(Signed) STAAL.	(L. s.) STAAL.
For the Netherlands:	Pour les Pays-Bas:
(Signed) v. KARNEBEEK.	(L. s.) v. KARNEBEEK.
(Signed) DEN BEER POORTUGAEL.	(L. s.) DEN BEER POORTUGAEL.
(Signed) T. M. C. ASSER.	(L. s.) T. M. C. ASSER.
(Signed) E. N. RAHUSEN.	(L. s.) E. N. RAHUSEN.
For Persia:	Pour la Perse:
(Signed) MIRZA RIZA KHAN, Arfa-ud-Dovleh.	(L. s.) MIRZA RIZA KHAN, Arfa-ud-Dovleh.
For Portugal:	Pour le Portugal:
(Signed) CONDE DE MACEDO.	(L. s.) CONDE DE MACEDO.
(Signed) AGOSTINHO D'ORNELLAS DE VASCON- CELLOS.	(L. s.) AGOSTINHO D'ORNELLAS DE VAS CON- CELLOS.
(Signed) CONDE DE SELIR.	(L. s.) CONDE DE SELIR.
For Roumania:	Pour la Roumanie:
(Signed) A. BELDIMAN.	(L. s.) A. BELDIMAN.
(Signed) J. N. PAPINIU.	(L. s.) J. N. PAPINIU.
For Russia:	Pour la Russie:
(Signed) STAAL.	(L. s.) STAAL.
(Signed) MARTENS.	(L. s.) MARTENS.
(Signed) A. BASILY.	(L. s.) A. BASILY.
For Servia:	Pour la Serbie:
(Signed) CHEDO MIYATOVITCH.	(L. s.) CHEDO MIYATOVITCH.
For Siam:	Pour le Siam:
(Signed) PHYA SURIA NUVATR.	(L. s.) PHYA SURIA NUVATR.
(Signed) VISUDDHA.	(L. s.) VISUDDHA.
For the United Kingdoms of Sweden and Norway:	Pour les Royaumes Unis de Suède et de Norvège:
(Signed) BILDT.	(L. s.) BILDT.
For Turkey:	Pour la Turquie:
(Signed) TURKHAN.	(L. s.) TURKHAN.
(Signed) MEHEMED NOURY.	(L. s.) MEHEMED NOURY.
For Bulgaria:	Pour la Bulgarie:
(Signed) D. STANCIOFF.	(L. s.) D. STANCIOFF.
(Signed) MAJOR HESSAPTCHIEFF.	(L. s.) MAJOR HESSAPTCHIEFF.

Certifié pour copie conforme,  
*Le Secrétaire Général du Département  
des Affaires Etrangères,*  
L. H. RUYSSENAERZ.  
LA HAYE, le 21 janvier 1900.

[Translation.]

## ANNEX TO THE CONVENTION.

REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

## SECTION I.—ON BELLIGERENTS.

## CHAPTER I.—On the Qualifications of Belligerents.

## ARTICLE I.

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps, fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

## ARTICLE II.

The population of a territory which has not been occupied who, on the enemy's approach, spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with Article I, shall be regarded a belligerent, if they respect the laws and customs of war.

## ARTICLE III.

The armed forces of the belligerent parties may consist of combatants and noncombatants. In case of capture by the enemy both have a right to be treated as prisoners of war.

## CHAPTER II.—On Prisoners of War.

## ARTICLE IV.

Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property.

## ARTICLE V.

Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed limits; but they can only be confined as an indispensable measure of safety.

## ANNEXE.

RÈGLEMENT CONCERNANT LES LOIS ET COUTUMES DE LA GUERRE SUR TERRE.

## SECTION I.—DES BELLIGÉRANTS.

## CHAPITRE I.—De la qualité de belligérant.

## ARTICLE 1.

Les lois, les droits et les devoirs de la guerre ne s'appliquent pas seulement à l'armée, mais encore aux milices et aux corps de volontaires réunissant les conditions suivantes:

1. d'avoir à leur tête une personne responsable pour ses subordonnés;
2. d'avoir un signe distinctif fixe et reconnaissable à distance;
3. de porter les armes ouvertement et
4. de se conformer dans leurs opérations aux lois et coutumes de la guerre.

Dans les pays où les milices ou des corps de volontaires constituent l'armée ou en font partie, ils sont compris sous la dénomination d'armée.

## ARTICLE 2.

La population d'un territoire non occupé qui, à l'approche de l'ennemi, prend spontanément les armes pour combattre les troupes d'invasion sans avoir eu le temps de s'organiser conformément à l'article premier, sera considérée comme belligérante si elle respecte les lois et coutumes de la guerre.

## ARTICLE 3.

Les forces armées des parties belligérantes peuvent se composer de combattants et de non-combattants. En cas de capture par l'ennemi, les uns et les autres ont droit au traitement des prisonniers de guerre.

## CHAPITRE II.—Des prisonniers de guerre.

## ARTICLE 4.

Les prisonniers de guerre sont au pouvoir du Gouvernement ennemi, mais non des individus ou des corps qui les ont capturés.

Ils doivent être traités avec humanité.

Tout ce qui leur appartient personnellement, excepté les armes, les chevaux et les papiers militaires, reste leur propriété.

## ARTICLE 5.

Les prisonniers de guerre peuvent être assignés à l'internement dans une ville, forteresse, camp ou localité quelconque, avec obligation de ne pas s'en éloigner au delà de certaines limites déterminées; mais ils ne peuvent être enfermés que par mesure de sûreté indispensable.

## ARTICLE VI.

The State may utilize the labor of prisoners of war according to their rank and aptitude. Their tasks shall not be excessive, and shall have nothing to do with the military operations.

Prisoners may be authorized to work for the Public Service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other branches of the Public Service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

## ARTICLE VII.

The Government into whose hands prisoners of war have fallen is bound to maintain them.

Falling a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

## ARTICLE VIII.

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen. Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping are again taken prisoners, are not liable to any punishment for the previous flight.

## ARTICLE IX.

Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

## ARTICLE X.

Prisoners of war may be set at liberty on parole if the laws of their country authorize

## ARTICLE 6.

L'Etat peut employer, comme travailleurs, les prisonniers de guerre, selon leur grade et leurs aptitudes. Ces travaux ne seront pas excessifs et n'auront aucun rapport avec les opérations de la guerre.

Les prisonniers peuvent être autorisés à travailler pour le compte d'administrations publiques ou de particuliers, ou pour leur propre compte.

Les travaux faits pour l'Etat sont payés d'après les tarifs en vigueur pour les militaires de l'armée nationale exécutant les mêmes travaux.

Lorsque les travaux ont lieu pour le compte d'autres administrations publiques ou pour des particuliers, les conditions en sont réglées d'accord avec l'autorité militaire.

Le salaire des prisonniers contribuera à adoucir leur position, et le surplus leur sera compté au moment de leur libération, sauf défalcation des frais d'entretien.

## ARTICLE 7.

Le Gouvernement au pouvoir duquel se trouvent les prisonniers de guerre est chargé de leur entretien.

A défaut d'une entente spéciale entre les belligérants, les prisonniers de guerre seront traités, pour la nourriture, le couchage et l'habillement, sur le même pied que les troupes du Gouvernement qui les aura capturés.

## ARTICLE 8.

Les prisonniers de guerre seront soumis aux lois, règlements, et ordres en vigueur dans l'armée de l'Etat au pouvoir duquel ils se trouvent. Tout acte d'insubordination autorise, à leur égard, les mesures de rigueur nécessaires.

Les prisonniers évadés, qui seraient repris avant d'avoir pu rejoindre leur armée ou avant de quitter le territoire occupé par l'armée qui les aura capturés, sont passibles de peines disciplinaires.

Les prisonniers qui, après avoir réussi à s'évader, sont de nouveau faits prisonniers, ne sont passibles d'aucune peine pour la fuite antérieure.

## ARTICLE 9.

Chaque prisonnier de guerre est tenu de déclarer, s'il est interrogé à ce sujet, ses véritables noms et grade et, dans le cas où il enfreindrait cette règle, il s'exposerait à une restriction des avantages accordés aux prisonniers de guerre de sa catégorie.

## ARTICLE 10.

Les prisonniers de guerre peuvent être mis en liberté sur parole, si les lois de leur pays

it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfill, both as regards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given.

#### ARTICLE XI.

A prisoner of war can not be forced to accept his liberty on parole; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole.

#### ARTICLE XII.

Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honor, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts.

#### ARTICLE XIII.

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying.

#### ARTICLE XIV.

A Bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States, and, when necessary, in the neutral countries on whose territory belligerents have been received. This Bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the necessary information to enable it to keep an individual return for each prisoner of war. It is kept informed of internments and changes, as well as of admissions into hospital and deaths.

It is also the duty of the Information Bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battlefields or left by prisoners who have died in hospital or ambulance, and to transmit them to those interested.

les y autorisent, et, en pareil cas, ils sont obligés, sous la garantie de leur honneur personnel, de remplir scrupuleusement, tant vis-à-vis de leur propre Gouvernement que vis-à-vis de celui qui les a faits prisonniers, les engagements qu'ils auraient contractés.

Dans le même cas, leur propre Gouvernement est tenu de n'exiger ni accepter d'eux aucun service contraire à la parole donnée.

#### ARTICLE 11.

Un prisonnier de guerre ne peut être contraint d'accepter sa liberté sur parole; de même le Gouvernement ennemi n'est pas obligé d'accéder à la demande du prisonnier réclamant sa mise en liberté sur parole.

#### ARTICLE 12.

Tout prisonnier de guerre, libéré sur parole et repris portant les armes contre le Gouvernement envers lequel il s'était engagé d'honneur, ou contre les alliés de celui-ci, perd le droit au traitement des prisonniers de guerre et peut être traduit devant les tribunaux.

#### ARTICLE 13.

Les individus qui suivent une armée sans en faire directement partie, tels que les correspondants et les reporters de journaux, les vivandiers, les fournisseurs, qui tombent au pouvoir de l'ennemi et que celui-ci juge utile de détenir, ont droit au traitement des prisonniers de guerre, à condition qu'ils soient munis d'une légitimation de l'autorité militaire de l'armée qu'ils accompagnaient.

#### ARTICLE 14.

Il est constitué, dès le début des hostilités, dans chacun des Etats belligérants et, le cas échéant, dans les pays neutres qui auront recueilli des belligérants sur leur territoire, un Bureau de renseignements sur les prisonniers de guerre. Ce bureau, chargé de répondre à toutes les demandes qui les concernent, reçoit des divers services compétents toutes les indications nécessaires pour lui permettre d'établir une fiche individuelle pour chaque prisonnier de guerre. Il est tenu au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès.

Le Bureau de renseignements est également chargé de recueillir et de centraliser tous les objets d'un usage personnel, valeurs, lettres, etc., qui seront trouvés sur les champs de bataille ou délaissés par des prisonniers décédés dans les hôpitaux et ambulances, et de les transmettre aux intéressés.

## ARTICLE XV.

Relief Societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for themselves and their duly accredited agents every facility, within the bounds of military requirements and Administrative Regulations, for the effective accomplishment of their humane task. Delegates of these Societies may be admitted to the places of internment for the distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their Regulations for order and police.

## ARTICLE XVI.

The Information Bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or dispatched by them, shall be free of all postal duties both in the countries of origin and destination, as well as in those they pass through.

Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways.

## ARTICLE XVII.

Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be repaid by their Government.

## ARTICLE XVIII.

Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities.

## ARTICLE XIX.

The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the National Army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

## ARTICLE 15.

Les sociétés de secours pour les prisonniers de guerre, régulièrement constituées selon la loi de leur pays et ayant pour objet d'être les intermédiaires de l'action charitable, recevront, de la part des belligérents, pour elles et pour leurs agents dûment accrédités, toute facilité, dans les limites tracées par les nécessités militaires et les règles administratives, pour accomplir efficacement leur tâche d'humanité. Les délégués de ces sociétés pourront être admis à distribuer des secours dans les dépôts d'internement, ainsi qu'aux lieux d'étape des prisonniers rapatriés, moyennant une permission personnelle délivrée par l'autorité militaire, et en prenant l'engagement par écrit de se soumettre à toutes les mesures d'ordre et de police que celle-ci prescrirait.

## ARTICLE 16.

Les Bureaux de renseignements jouissent de la franchise de port. Les lettres, mandats et articles d'argent, ainsi que les colis postaux destinés aux prisonniers de guerre ou expédiés par eux, seront affranchis de toutes taxes postales, aussi bien dans les pays d'origine et de destination que dans les pays intermédiaires.

Les dons et secours en nature destinés aux prisonniers de guerre seront admis en franchise de tous droits d'entrée et autres, ainsi que des taxes de transport sur les chemins de fer exploités par l'État.

## ARTICLE 17.

Les officiers prisonniers pourront recevoir le complément, s'il y a lieu, de la solde qui leur est attribuée dans cette situation par les règlements de leur pays, à charge de remboursement par leur Gouvernement.

## ARTICLE 18.

Toute latitude est laissée aux prisonniers de guerre pour l'exercice de leur religion, y compris l'assistance aux offices de leur culte, à la seule condition de se conformer aux mesures d'ordre et de police prescrites par l'autorité militaire.

## ARTICLE 19.

Les testaments des prisonniers de guerre sont reçus ou dressés dans les mêmes conditions que pour les militaires de l'armée nationale.

On suivra également les mêmes règles en ce qui concerne les pièces relatives à la constatation des décès, ainsi que pour l'inhumation des prisonniers de guerre, en tenant compte de leur grade et de leur rang.

## ARTICLE XX.

After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible.

CHAPTER III.—*On the Sick and Wounded.*

## ARTICLE XXI.

The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention of the 22nd August, 1864, subject to any modifications which may be introduced into it.

## SECTION II.—ON HOSTILITIES.

CHAPTER I.—*On means of injuring the Enemy, Sieges, and Bombardments.*

## ARTICLE XXII.

The right of belligerents to adopt means of injuring the enemy is not unlimited.

## ARTICLE XXIII.

Besides the prohibitions provided by special conventions, it is especially prohibited—

- (a.) To employ poison or poisoned arms;
- (b.) To kill or wound treacherously individuals belonging to the hostile nation or army;
- (c.) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- (d.) To declare that no quarter will be given;
- (e.) To employ arms, projectiles, or material of a nature to cause superfluous injury;
- (f.) To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention;
- (g.) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

## ARTICLE XXIV.

Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable.

## ARTICLE XXV.

The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited.

## ARTICLE 20.

Après la conclusion de la paix, le rapatriement des prisonniers de guerre s'effectuera dans le plus bref délai possible.

CHAPITRE III.—*Des malades et des blessés.*

## ARTICLE 21.

Les obligations des belligérants concernant le service des malades et des blessés sont régies par la Convention de Genève du 22 août 1864, sauf les modifications dont celle-ci pourra être l'objet.

## SECTION II.—DES HOSTILITÉS.

CHAPITRE I.—*Des moyens de nuire à l'ennemi, des sièges et des bombardements.*

## ARTICLE 22.

Les belligérants n'ont pas un droit illimité quant au choix des moyens de nuire à l'ennemi.

## ARTICLE 23.

Outre les prohibitions établies par des conventions spéciales, il est notamment *interdit* :

- a. d'employer du poison ou des armes empoisonnées;
- b. de tuer ou de blesser par trahison des individus appartenant à la nation ou à l'armée ennemie;
- c. de tuer ou de blesser un ennemi qui, ayant mis bas les armes ou n'ayant plus les moyens de se défendre, s'est rendu à discrétion;
- d. de déclarer qu'il ne sera pas fait de quartier;
- e. d'employer des armes, des projectiles ou des matières propres à causer des maux superflus;
- f. d'user indûment du pavillon parlementaire, du pavillon national ou des insignes militaires et de l'uniforme de l'ennemi, ainsi que des signes distinctifs de la Convention de Genève;
- g. de détruire ou de saisir des propriétés ennemies, sauf les cas où ces destructions ou ces saisies seraient impérieusement commandées par les nécessités de la guerre.

## ARTICLE 24.

Les ruses de guerre et l'emploi des moyens nécessaires pour se procurer des renseignements sur l'ennemi et sur le terrain sont considérés comme *licites*.

## ARTICLE 25.

Il est interdit d'attaquer ou de bombarder des villes, villages, habitations ou bâtiments qui ne sont pas défendus.

## ARTICLE XXVI.

The Commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

## ARTICLE XXVII.

In sieges and bombardments all necessary steps should be taken to spare, as far as possible, edifices devoted to religion, art, science, and charity, hospitals and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

## ARTICLE XXVIII.

The pillage of a town or place, even when aken by assault, is prohibited.

## CHAPTER II.—On Spies.

## ARTICLE XXIX.

An individual can only be considered a spy if, acting clandestinely or on false pretences, he obtains, or seeks to obtain, information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the following are not considered spies: Soldiers or civilians carrying out their mission openly, charged with the delivery of despatches destined either for their own army or for that of the enemy. To this class belong likewise the individuals sent in balloons to deliver despatches, and generally to maintain communication between the various parts of an army or a territory.

## ARTICLE XXX.

A spy taken in the act can not be punished without previous trial.

## ARTICLE XXXI.

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

## ARTICLE 26.

Le commandant des troupes assaillantes, avant d'entreprendre le bombardement, et sauf le cas d'attaque de vive force, devra faire tout ce qui dépend de lui pour en avertir les autorités.

## ARTICLE 27.

Dans les sièges et bombardements, toutes les mesures nécessaires doivent être prises pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les hôpitaux et les lieux de rassemblement de malades et de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des assiégés est de désigner ces édifices ou lieux de rassemblement par des signes visibles spéciaux qui seront notifiés d'avance à l'assiégeant.

## ARTICLE 28.

Il est interdit de livrer au pillage même une ville ou localité prise d'assaut.

## CHAPITRE II.—Des espions.

## ARTICLE 29.

Ne peut être considéré comme espion que l'individu qui, agissant clandestinement ou sous de faux prétextes, recueille ou cherche à recueillir des informations dans la zone d'opérations d'un belligérant, avec l'intention de les communiquer à la partie adverse.

Ainsi les militaires non déguisés qui ont pénétré dans la zone d'opérations de l'armée ennemie, à l'effet de recueillir des informations, ne sont pas considérés comme espions. De même, ne sont pas considérés comme espions: les militaires et les non-militaires, accomplissant ouvertement leur mission, chargés de transmettre de dépêches destinées soit à leur propre armée, soit à l'armée ennemie. A cette catégorie appartiennent également les individus envoyés en ballon pour transmettre les dépêches, et, en général, pour entretenir les communications entre les diverses parties d'une armée ou d'un territoire.

## ARTICLE 30.

L'espion pris sur le fait ne pourra être puni sans jugement préalable.

## ARTICLE 31.

L'espion qui, ayant rejoint l'armée à laquelle il appartient, est capturé plus tard par l'ennemi, est traité comme prisonnier de guerre et n'encourt aucune responsabilité pour ses actes d'espionnage antérieurs.

CHAPTER III.—*On Flags of Truce*

## ARTICLE XXXI.

An individual is considered as bearing a flag of truce who is authorized by one of the belligerents to enter into communication with the other, and who carries a white flag. He has a right to inviolability, as well as the trumpeter, bugler, or drummer, the flag bearer, and the interpreter who may accompany him.

## ARTICLE XXXIII.

The Chief to whom a flag of truce is sent is not obliged to receive it in all circumstances.

He can take all steps necessary to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

## ARTICLE XXXIV.

The envoy loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to provoke or commit an act of treachery.

CHAPTER IV.—*On Capitulations*

## ARTICLE XXXV.

Capitulations agreed on between the Contracting Parties must be in accordance with the rules of military honour.

When once settled, they must be scrupulously observed by both the parties.

CHAPTER V.—*On Armistices.*

## ARTICLE XXXVI.

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can resume operations at any time, provided always the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

## ARTICLE XXXVII.

An armistice may be general or local. The first suspends all military operations of the belligerent States; the second, only those between certain fractions of the belligerent armies and in a fixed radius.

## ARTICLE XXXVIII.

An armistice must be notified officially, and in good time, to the competent authorities and the troops. Hostilities are suspended immediately after the notification, or at a fixed date.

CHAPITRE III.—*Des parlementaires.*

## ARTICLE 32.

Est considéré comme parlementaire l'individu autorisé par l'un des belligérants à entrer en pourparlers avec l'autre et se présentant avec le drapeau blanc. Il a droit à l'inviolabilité ainsi que la trompette, clairon ou tambour, le porte-drapeau et l'interprète qui l'accompagneraient.

## ARTICLE 33.

Le Chef auquel un parlementaire est expédié n'est pas obligé de le recevoir en toutes circonstances.

Il peut prendre toutes les mesures nécessaires afin d'empêcher le parlementaire de profiter de sa mission pour se renseigner.

Il a le droit, en cas d'abus, de retenir temporairement le parlementaire.

## ARTICLE 34.

Le parlementaire perd ses droits d'inviolabilité, s'il est prouvé, d'une manière positive et irrécusable, qu'il a profité de sa position privilégiée pour provoquer ou commettre un acte de trahison.

CHAPITRE IV.—*Des capitulations.*

## ARTICLE 35.

Les capitulations arrêtées entre les parties contractantes doivent tenir compte des règles de l'honneur militaire.

Une fois fixées, elles doivent être scrupuleusement observées par les deux parties.

CHAPITRE V.—*De l'armistice.*

## ARTICLE 36.

L'armistice suspend les opérations de guerre par un accord mutuel des parties belligérantes. Si la durée n'en est pas déterminée, les parties belligérantes peuvent reprendre en tout temps les opérations, pourvu toutefois que l'ennemi soit averti en temps convenu, conformément aux conditions de l'armistice.

## ARTICLE 37.

L'armistice peut être général ou local. Le premier suspend partout les opérations de guerre des États belligérants; le second, seulement entre certaines fractions des armées belligérantes et dans un rayon déterminé.

## ARTICLE 38.

L'armistice doit être notifié officiellement et en temps utile aux autorités compétentes et aux troupes. Les hostilités sont suspendues immédiatement après la notification ou au terme fixé.



## ARTICLE XXXIX.

It is for the Contracting Parties to settle, in the terms of the armistice, what communications may be held, on the theatre of war, with the population and with each other.

## ARTICLE XL.

Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once.

## ARTICLE XLI.

A violation of the terms of the armistice by private individuals acting on their own initiative, only confers the right of demanding the punishment of the offenders, and, if necessary, indemnity for the losses sustained.

## SECTION III.—ON MILITARY AUTHORITY OVER HOSTILE TERRITORY.

## ARTICLE XLII.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself.

## ARTICLE XLIII.

The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

## ARTICLE XLIV.

Any compulsion of the population of occupied territory to take part in military operations against its own country is prohibited.

## ARTICLE XLV.

Any pressure on the population of occupied territory to take the oath to the hostile Power is prohibited.

## ARTICLE XLVI.

Family honor and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

Private property can not be confiscated.

## ARTICLE XLVII.

Pillage is formally prohibited.

## ARTICLE 39.

Il dépend des parties contractantes de fixer, dans les clauses de l'armistice, les rapports qui pourraient avoir lieu, sur le théâtre de la guerre, avec les populations et entre elles.

## ARTICLE 40.

Toute violation grave de l'armistice, par l'une des parties, donne à l'autre le droit de le dénoncer et même, en cas d'urgence, de reprendre immédiatement les hostilités.

## ARTICLE 41.

La violation des clauses de l'armistice, par des particuliers agissant de leur propre initiative, donne droit seulement à réclamer la punition des coupables et, s'il y a lieu, une indemnité pour les pertes éprouvées.

## SECTION III.—DE L'AUTORITÉ MILITAIRE SUR LE TERRITOIRE DE L'ÉTAT ENNEMI.

## ARTICLE 42.

Un territoire est considéré comme occupé lorsqu'il se trouve placé de fait sous l'autorité de l'armée ennemie.

L'occupation ne s'étend qu'aux territoires où cette autorité est établie et en mesure de s'exercer.

## ARTICLE 43.

L'autorité du pouvoir légal ayant passé de fait entre les mains de l'occupant, celui-ci prendra toutes les mesures qui dépendent de lui en vue de rétablir et d'assurer, autant qu'il est possible, l'ordre et la vie publics en respectant, sauf empêchement absolu, les lois en vigueur dans le pays.

## ARTICLE 44.

Il est interdit de forcer la population d'un territoire occupé à prendre part aux opérations militaires contre son propre pays.

## ARTICLE 45.

Il est interdit de contraindre la population d'un territoire occupé à prêter serment à la puissance ennemie.

## ARTICLE 46.

L'honneur et les droits de la famille, la vie des individus et la propriété privée, ainsi que les convictions religieuses et l'exercice des cultes, doivent être respectés.

La propriété privée ne peut pas être confisquée.

## ARTICLE 47.

Le pillage est formellement interdit.

## ARTICLE XLVIII.

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

## ARTICLE XLIX.

If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.

## ARTICLE L.

No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it can not be regarded as collectively responsible.

## ARTICLE LI.

No tax shall be collected except under a written order and on the responsibility of a Commander-in-Chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every payment a receipt shall be given to the taxpayer.

## ARTICLE LII.

Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged.

## ARTICLE LIII.

An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

## ARTICLE 48.

Si l'occupant prélève, dans le territoire occupé, les impôts, droits et péages établis au profit de l'État, il le fera, autant que possible, d'après les règles de l'assiette et de la répartition en vigueur, et il en résultera pour lui l'obligation de pourvoir aux frais de l'administration du territoire occupé dans la mesure où le Gouvernement légal y était tenu.

## ARTICLE 49.

Si, en dehors des impôts visés à l'article précédent, l'occupant prélève d'autres contributions en argent dans le territoire occupé, ce ne pourra être que pour les besoins de l'armée ou de l'administration de ce territoire.

## ARTICLE 50.

Aucune peine collective, pécuniaire ou autre, ne pourra être édictée contre les populations à raison de faits individuels dont elles ne pourraient être considérées comme solidairement responsables.

## ARTICLE 51.

Aucune contribution ne sera perçue qu'en vertu d'un ordre écrit et sous la responsabilité d'un général en chef.

Il ne sera procédé, autant que possible, à cette perception que d'après les règles de l'assiette et de la répartition des impôts en vigueur.

Pour toute contribution un reçu sera délivré aux contribuables.

## ARTICLE 52.

Des réquisitions en nature et des services ne pourront être réclamés des communes ou des habitants, que pour les besoins de l'armée d'occupation. Ils seront en rapport avec les ressources du pays et de telle nature qu'ils n'impliquent pas pour les populations l'obligation de prendre part aux opérations de la guerre contre leur patrie.

Ces réquisitions et ces services ne seront réclamés qu'avec l'autorisation du commandant dans la localité occupée.

Les prestations en nature seront, autant que possible, payées au comptant; sinon, elles seront constatées par des reçus.

## ARTICLE 53.

L'armée qui occupe un territoire ne pourra saisir que le numéraire, les fonds et les valeurs exigibles appartenant en propre à l'État, les dépôts d'armes, moyens de transport, magasins et approvisionnements et, en général, toute propriété mobilière de l'État de nature à servir aux opérations de la guerre.

Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depots of arms and, generally, all kinds of war material, even though belonging to Companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them.

## ARTICLE LIV.

The plant of railways coming from neutral States, whether the property of those States, or of Companies, or of private persons, shall be sent back to them as soon as possible.

## ARTICLE LV.

The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

## ARTICLE LVI.

The property of the communes, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited, and should be made the subject of proceedings.

## SECTION IV.—ON THE INTERNMENT OF BELLIGERENTS AND THE CARE OF THE WOUNDED IN NEUTRAL COUNTRIES.

## ARTICLE LVII.

A neutral State which receives in its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theater of war.

It can keep them in camps, and even confine them in fortresses or locations assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorization.

## ARTICLE LVIII.

Failing a special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

Le matériel des chemins de fer, les télégraphes de terre, les téléphones, les bateaux à vapeur et autres navires, en dehors des cas régis par la loi maritime, de même que les dépôts d'armes et en général toute espèce de munitions de guerre, même appartenant à des sociétés ou à des personnes privées, sont également des moyens de nature à servir aux opérations de la guerre, mais devront être restitués, et les indemnités seront réglées à la paix.

## ARTICLE 54.

Le matériel des chemins de fer provenant d'États neutres, qu'il appartienne à ces États ou à des Sociétés ou personnes privées, leur sera renvoyé aussitôt que possible.

## ARTICLE 55.

L'État occupant ne se considérera que comme administrateur et usufruitier des édifices publics, immeubles, forêts et exploitations agricoles appartenant à l'État ennemi et se trouvant dans le pays occupé. Il devra sauvegarder le fond de ces propriétés et les administrer conformément aux règles de l'usufruit.

## ARTICLE 56.

Les biens des communes, ceux des établissements consacrés aux cultes, à la charité et à l'instruction, aux arts et aux sciences, même appartenant à l'État, seront traités comme la propriété privée.

Toute saisie, destruction ou dégradation intentionnelle de semblables établissements, de monuments historiques, d'œuvres d'art et de science, est interdite et doit être poursuivie.

## SECTION IV.—DES BELLIGÉRANTS INTERNÉS ET DES BLESSÉS SOIGNÉS CHEZ LES NEUTRES.

## ARTICLE 57.

L'État neutre qui reçoit sur son territoire des troupes appartenant aux armées belligérantes, les internera, autant que possible, loin du théâtre de la guerre.

Il pourra les garder dans des camps, et même les enfermer dans les forteresses ou dans des lieux appropriés à cet effet.

Il décidera si les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

## ARTICLE 58.

A défaut de convention spéciale, l'État neutre fournira aux internés les vivres, les habillements et les secours commandés par l'humanité.

At the conclusion of peace, the expenses caused by the internment shall be made good.

ARTICLE LIX.

A neutral State may authorize the passage through its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

ARTICLE LX.

The Geneva Convention applies to sick and wounded interned in neutral territory.

Bonification sera faite, à la paix, des frais occasionnés par l'internement.

ARTICLE 59.

L'État neutre pourra autoriser le passage sur son territoire des blessés ou malades appartenant aux armées belligérantes, sous la réserve que les trains qui les amèneront ne transporteront ni personnel ni matériel de guerre. En pareil cas, l'État neutre est tenu de prendre les mesures de sûreté et de contrôle nécessaires à cet effet.

Les blessés ou malades amenés dans ces conditions sur le territoire neutre par un des belligérants, et qui appartiendraient à la partie adverse, devront être gardés par l'État neutre, de manière qu'ils ne puissent de nouveau prendre part aux opérations de la guerre. Celui-ci aura les mêmes devoirs quant aux blessés ou malades de l'autre armée qui lui seraient confiés.

ARTICLE 60.

La Convention de Genève s'applique aux malades et aux blessés internés sur territoire neutre.

And whereas the said Convention was duly ratified by the Government of the United States of America, by and with the advice and consent of the Senate thereof, and by the Governments of the other Powers aforesaid, with the exception of Sweden and Norway, and Turkey;

And whereas, in pursuance of the stipulations of Article III of the said Convention, the ratifications of the said Convention were deposited at The Hague on the 4th day of September, 1900, by the Plenipotentiaries of the Governments of Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, and Bulgaria; on the 6th day of October, 1900, by the Plenipotentiary of the Government of Japan; on the 16th day of October, 1900, by the Plenipotentiary of the Government of Montenegro; on the 4th day of April, 1901, by the Plenipotentiary of the Government of Greece; on the 17th day of April, 1901, by the Plenipotentiary of the Government of Mexico; on the 11th day of May, 1901, by the Plenipotentiary of the Government of Serbia; on the 12th day of July, 1901, by the Plenipotentiary of the Government of Luxemburg, and on the 5th day of April, 1902, by the Plenipotentiary of the Government of the United States of America:

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this eleventh day of April, in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States the  
[SEAL.] one hundred and twenty-sixth.

THEODORE ROOSEVELT.

By the President:

DAVID J. HILL,  
*Acting Secretary of State.*

## APPENDIX IV.

### CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CERTAIN POWERS FOR THE ADAPTATION TO MARITIME WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION OF AUGUST 22, 1864.

*Signed at The Hague July 29, 1899.*

*Ratification advised by the Senate May 4, 1900.*

*Ratified by the President of the United States August 3, 1900.*

*Ratification deposited with the Netherlands Government September 4, 1900.*

*Proclaimed November 1, 1901.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas a Convention for the adaptation to Maritime Warfare of the principles of the Geneva Convention of August 22, 1864, was concluded and signed on July 29, 1899, by the Plenipotentiaries of the United States of America, Germany, Austria-Hungary, Belgium, China, Denmark, Spain, Mexico, France, Great Britain and Ireland, Greece, Italy, Japan, Luxemburg, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Servia, Siam, Sweden and Norway, Switzerland, Turkey and Bulgaria, the original of which Convention, in the French language, is word for word as follows:

[Translation.]

CONVENTION POUR L'ADAPTATION À LA GUERRE  
MARITIME DES PRINCIPES DE LA CONVEN-  
TION DE GENÈVE DU 22 AOÛT 1864.

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse; Sa Majesté l'Empereur d'Autriche, Roi de Bohême etc. et Roi Apostolique de Hongrie; Sa Majesté le Roi des Belges; Sa Majesté l'Empereur de Chine; Sa Majesté le Roi de Danemark; Sa Majesté le Roi d'Espagne et en Son Nom Sa Majesté la Reine-Régente du Royaume; le Président des Etats-Unis d'Amérique; le Président des Etats-Unis Mexicains; le Président de la République Française; Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, Impératrice des Indes; Sa Majesté le Roi des Hellènes; Sa Majesté le Roi d'Italie; Sa Majesté l'Empereur du Japon; Son Altesse Royale le Grand-Duc de Luxembourg, Duc de Nassau; Son Altesse le Prince le Monténégro; Sa Majesté la Reine des Pays-Bas; Sa Majesté Impériale le Schah de Perse; Sa Majesté le Roi de Portugal et des Algarves etc.; Sa Majesté le Roi de Roumanie; Sa Majesté l'Empereur de Toutes les Russies;

CONVENTION FOR THE ADAPTATION TO MARITIME WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION OF AUGUST 22, 1864.

His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the Emperor of China; His Majesty the King of Denmark; His Majesty the King of Spain and in His Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxembourg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves,

Sa Majesté le Roi de Serbie; Sa Majesté le Roi de Siam; Sa Majesté le Roi de Suède et de Norvège; le Conseil Fédéral Suisse; Sa Majesté l'Empereur des Ottomans et Son Altesse Royale le Prince de Bulgarie

Egalement animés du désir de diminuer autant qu'il dépend d'eux les maux inséparables de la guerre et voulant dans ce but adapter à la guerre maritime les principes de la Convention de Genève du 22 août 1864, ont résolu de conclure une Convention à cet effet;

Ils ont en conséquence nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse: Son Excellence le Comte de Münster, Prince de Derneburg, Son Ambassadeur à Paris.

Sa Majesté l'Empereur d'Autriche, Roi de Bohême, etc. et Roi Apostolique de Hongrie: Son Excellence le Comte R. de Welsersheimb, Son Ambassadeur extraordinaire et plénipotentiaire. M. Alexandre Okolicsanyi d'Okolicsna, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté le Roi des Belges: Son Excellence M. Auguste Beernaert, Son Ministre d'Etat, Président de la Chambre des Représentants. M. le Comte De Grelle Rogier, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Chevalier Descamps, Sénateur.

Sa Majesté l'Empereur de Chine: M. Yang Yu, Son Envoyé extraordinaire et Ministre Plénipotentiaire à St. Pétersbourg.

Sa Majesté le Roi de Danemark: Son Chamberlain Fr. E. de Bille, Son Envoyé extraordinaire et Ministre plénipotentiaire à Londres.

Sa Majesté le Roi d'Espagne et en Son Nom, Sa Majesté la Reine-Régente du Royaume: Son Excellence le Duc de Tetuan, Ancien Ministre des Affaires Étrangères. M. W. Ramirez de Villa Urrutia, Son Envoyé extraordinaire et Ministre plénipotentiaire à Bruxelles. M. Arthur de Baguer, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Le Président des États-Unis d'Amérique: M. Stanford Newel, Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Le Président des États-Unis Mexicains: M. de Mier, Envoyé extraordinaire et Ministre plénipotentiaire à Paris. M. Zenil, Ministre-Résident à Bruxelles.

Le Président de la République Française: M. Léon Bourgeois, Ancien Président du Conseil, Ancien Ministre des Affaires Étrangères,

etc.; His Majesty the King of Roumania; His Majesty the Emperor of all the Russias; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; the Swiss Federal Council; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria.

Alike animated by the desire to diminish, as far as depends on them the evils inseparable from warfare, and wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 22nd August, 1864, have decided to conclude a convention to this effect:

They have, in consequence, appointed as their Plenipotentiaries, to wit:

His Majesty the Emperor of Germany, King of Prussia, His Excellency Count Munster, Prince of Derneburg, His Ambassador at Paris.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary: His Excellency Count R. de Welsersheimb, His Ambassador Extraordinary and Plenipotentiary; Mr. Alexander Okolicsanyi d'Okolicsna, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Belgians: His Excellency Mr. Auguste Beernaert, His Minister of State, President of the Chamber of Deputies; Count de Grelle Rogier, His Envoy Extraordinary and Minister Plenipotentiary at the Hague; the Chevalier Descamps, Senator.

His Majesty the Emperor of China: Mr. Yang Yu, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg.

His Majesty the King of Denmark: His Chamberlain Fr. E. de Bille, His Envoy Extraordinary and Minister Plenipotentiary at London.

His Majesty the King of Spain and in His Name, Her Majesty the Queen Regent of the Kingdom: His Excellency the Duke of Tetuan, formerly Minister for Foreign Affairs; M. W. Ramirez de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary at Brussels; M. Arthur de Baguer, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United States of America: Mr. Stanford Newel, Envoy Extraordinary and minister Plenipotentiary at The Hague.

The President of the United Mexican States: Mr. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Zenil, Minister Resident at Brussels.

The President of the French Republic: M. Léon Bourgeois, formerly President of the Council, ex-Minister of Foreign Affairs, Mem-

Membre de la Chambre des Députés. M. Georges Bihourd, Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Baron d'Estournelles de Constant, Ministre plénipotentiaire, Membre de la Chambre Députés.

Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, Impératrice des Indes: Sir Henry Howard, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté la Roi des Hellènes: M. N. Delyanni, Ancien Président du Conseil, Ancien Ministre des Affaires Étrangères, Son Envoyé extraordinaire et Ministre plénipotentiaire à Paris.

Sa Majesté le Roi d'Italie: Son Excellence le Comte Nigra, Son Ambassadeur à Vienne, Sénateur du Royaume. M. le Comte A. Zannini, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye. M. le Commandeur Guido Pompilj, Député au Parlement Italien.

Sa Majesté l'Empereur du Japon: M. I. Motono, Son Envoyé extraordinaire et Ministre plénipotentiaire à Bruxelles.

Son Altesse Royale le Grand Duc de Luxembourg, Duc de Nassau: Son Excellence M. Eyschen, Son Ministre d'État, Président du Gouvernement Grand-Ducal.

Son Altesse le Prince de Monténégro: Son Excellence M. le Conseiller Privé Actuel de Staal, Ambassadeur de Russie à Londres.

Sa Majesté la Reine des Pays-Bas: M. le Jonkheer A. P. C. van Karnebeek, Ancien Ministre des Affaires Étrangères, Membre de la Seconde Chambre des États-Généraux. M. le Général J. C. C. den Beer Poortugael, Ancien Ministre de la Guerre, Membre du Conseil d'État. M. T. M. C. Asser, Membre du Conseil d'État. M. E. N. Rahusen, Membre de la Première Chambre des États-Généraux.

Sa Majesté Impériale le Schah de Perse: Son Aide de Camp Général Mirza Riza Khan, Arfa-ud-Dovleh, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg et à Stockholm.

Sa Majesté le Roi de Portugal et des Algarves, etc.: M. le Comte de Macedo, Pair du Royaume, Ancien Ministre de la Marine et des Colonies, Son Envoyé extraordinaire et Ministre plénipotentiaire à Madrid. M. d'Ornellas et Vasconcellos, Pair du Royaume, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg. M. le Comte de Selir, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté le Roi de Roumanie: M. Alexandre Beldiman, Son Envoyé extraordinaire

ber of the Chamber of Deputies; M. Georges Bihourd, Envoy Extraordinary and Minister Plenipotentiary at The Hague; Baron d'Estournelles de Constant, Minister Plenipotentiary, Member of the Chamber of Deputies.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: Sir Henry Howard, Her Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Hellenes: Mr. N. Delyanni, formerly President of the Council, ex-Minister for Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Italy: His Excellency Count Nigra, His Ambassador at Vienna, Senator of the Kingdom; Count A. Zannini, His Envoy Extraordinary and Minister Plenipotentiary at The Hague; Commander Guido Pompilj, Deputy in the Italian Parliament.

His Majesty the Emperor of Japan: Mr. I. Motono, His Envoy Extraordinary and Minister Plenipotentiary at Brussels.

His Royal Highness the Grand Duke of Luxembourg, Duke of Nassau: His Excellency Mr. Eyschen, His Minister of State, President of the Grand Ducal Government.

His Highness the Prince of Montenegro: His Excellency Mr. de Staal, Privy Councillor, Ambassador of Russia at London.

Her Majesty the Queen of the Netherlands: Jonkheer A. P. C. van Karnebeek, formerly Minister for Foreign Affairs, Member of the Second Chamber of the States General; General J. C. C. den Beer Poortugael, formerly Minister of War, Member of the Council of State; Mr. T. M. C. Asser, Member of the Council of State; Mr. E. N. Rahusen, Member of the First Chamber of the States General.

His Imperial Majesty the Shah of Persia: His Aid-de-Camp General Mirza Riza Khan, Arfa-ud-Dovleh, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and Stockholm.

His Majesty the King of Portugal and of the Algarves, etc.: Count Macedo, Peer of the Kingdom, formerly Minister of the Navy and of the Colonies, His Envoy Extraordinary and Minister Plenipotentiary at Madrid; Mr. d'Ornellas and Vasconcellos, Peer of the Kingdom, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg; Count de Selir, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of Roumania: Mr. Alexander Beldiman, His Envoy Extraordi-

et Ministre plénipotentiaire à Berlin. M. Jean N. Papiniu, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye.

Sa Majesté l'Empereur de Toutes les Russies: Son Excellence M. le Conseiller Privé Actuel de Staal, Son Ambassadeur à Londres. M. de Martens, Membre Permanent du Conseil du Ministère Impérial des Affaires Étrangères, Son Conseiller Privé. Son Conseiller d'État Actuel de Basily, Chambellan, Directeur du Premier Département du Ministère Impérial des Affaires Étrangères.

Sa Majesté le Roi de Serbie: M. Miyatovitch, Son Envoyé extraordinaire et Ministre plénipotentiaire à Londres et à la Haye.

Sa Majesté le Roi de Siam: M. Phya Suriya Nuvatr, Son Envoyé extraordinaire et Ministre plénipotentiaire à St. Pétersbourg et à Paris. M. Phya Visuddha Suriyasakti, Son Envoyé extraordinaire et Ministre plénipotentiaire à la Haye et à Londres.

Sa Majesté le Roi de Suède et de Norvège: M. le Baron de Bildt, Son Envoyé extraordinaire et Ministre plénipotentiaire à Rome.

Le Conseil Fédéral Suisse: M. le Dr. Arnold Roth, Envoyé extraordinaire et Ministre plénipotentiaire à Berlin.

Sa Majesté l'Empereur des Ottomans: Son Excellence Turkhan Pacha, Ancien Ministre des Affaires Étrangères, Membre de Son Conseil d'État. Noury Bey, Secrétaire-Général au Ministère des Affaires Étrangères.

Son Altesse Royale le Prince de Bulgarie: M. le Dr. Dimitri Stancioff, Agent Diplomatique à St. Pétersbourg. M. le Major Christo Hessaptchieff, Attaché Militaire à Belgrade.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bon et due forme, sont convenus des dispositions suivantes:

#### ARTICLE 1.

Les bâtiments-hôpitaux militaires, c'est-à-dire les bâtiments construits ou aménagés par les États spécialement et uniquement en vue de porter secours aux blessés, malades et naufragés, et dont les noms auront été communiqués, à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage, aux Puissances belligérantes, sont respectés et ne peuvent être capturés pendant la durée des hostilités.

Ces bâtiments ne sont pas non plus assimilés aux navires de guerre au point de vue de leur séjour dans un port neutre.

#### ARTICLE 2.

Les bâtiments hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou

nary and Minister Plenipotentiary at Berlin; Mr. Jean N. Papiniu, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the Emperor of all the Russias: His Excellency Mr. de Staal, Privy Councillor, His Ambassador at London; Mr. de Martens, Permanent Member of the Council of the Imperial Ministry of Foreign Affairs, His Privy Councillor; Mr. de Basily, His Councillor of State, Chamberlain, Director of the First Department of the Imperial Ministry of Foreign Affairs.

His Majesty the King of Servia: Mr. Miyatovitch, His Envoy Extraordinary and Minister Plenipotentiary at London and at The Hague.

His Majesty the King of Siam: M. Phya Suriya Nuvatr, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Paris; M. Phya Visuddha Suriyasakti, His Envoy Extraordinary and Minister Plenipotentiary at The Hague and at London.

His Majesty the King of Sweden and Norway: Baron de Bildt, His Envoy Extraordinary and Minister Plenipotentiary at Rome.

The Swiss Federal Council: Dr. Arnold Roth, Envoy Extraordinary and Minister Plenipotentiary at Berlin.

His Majesty the Emperor of the Ottomans: His Excellency Turkhan Pasha, formerly Minister for Foreign Affairs, Member of His Council of State; Noury Bey, Secretary-General in the Ministry for Foreign Affairs.

His Royal Highness the Prince of Bulgaria: Dr. Dimitri Stancioff, Diplomatic Agent at St. Petersburg; Major Christo Hessaptchieff, Military Attaché at Belgrade;

Who, after communication of their full powers, found in good and due form, have agreed on the following provisions:

#### ARTICLE I.

Military hospital ships, that is to say, ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick, or shipwrecked, and the names of which shall have been communicated to the belligerent Powers at the beginning or during the course of hostilities, and in any case before they are employed, shall be respected and can not be captured while hostilities last.

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

#### ARTICLE II.

Hospital ships, equipped wholly or in part at the cost of private individuals or officially



des sociétés de secours officiellement reconnues, sont également respectés et exempts de capture, si la Puissance belligérante dont ils dépendent, leur a donné une commission officielle et en a notifié les noms à la Puissance adverse à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage.

Ces navires doivent être porteurs d'un document de l'autorité compétente déclarant qu'ils ont été soumis à son contrôle pendant leur armement et à leur départ final.

#### ARTICLE 3.

Les bâtiments hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des sociétés officiellement reconnues de pays neutres, sont respectés et exempts de capture, si la Puissance neutre dont ils dépendent leur a donné une commission officielle et en a notifié les noms aux Puissances belligérantes à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage.

#### ARTICLE 4.

Les bâtiments qui sont mentionnés dans les art. 1, 2 et 3, porteront secours et assistance aux blessés, malades et naufragés des belligérants sans distinction de nationalité.

Les Gouvernements s'engagent à n'utiliser ces bâtiments pour aucun but militaire.

Ces bâtiments ne devront gêner en aucune manière les mouvements des combattants.

Pendant et après le combat, ils agiront à leurs risques et périls.

Les belligérants auront sur eux le droit de contrôle et de visite; ils pourront refuser leur concours, leur enjoindre de s'éloigner, leur imposer une direction déterminée et mettre à bord un commissaire, même les déténir, si la gravité des circonstances l'exigeait.

Autant que possible, les belligérants inscriront sur le journal de bord des bâtiments hospitaliers les ordres qu'ils leur donneront.

#### ARTICLE 5.

Les bâtiments-hôpitaux militaires seront distingués par une peinture extérieure blanche avec une bande horizontale verte d'un mètre et demi de largeur environ.

Les bâtiments qui sont mentionnés dans les articles 2 et 3, seront distingués par une peinture extérieure blanche avec une bande horizontale rouge d'un mètre et demi de largeur environ.

Les embarcations des bâtiments qui viennent d'être mentionnés, comme les petits bâtiments qui pourront être affectés au service hospitalier, se distingueront par une peinture analogue.

recognized relief Societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships should be furnished with a certificate from the competent authorities, declaring that they had been under their control while fitting out on final departure.

#### ARTICLE III.

Hospital ships, equipped wholly or in part at the cost of private individuals or officially recognized Societies of neutral countries, shall be respected and exempt from capture, if the neutral power to whom they belong has given them an official commission and notified their names to the belligerent powers at the commencement of or during hostilities, and in any case before they are employed.

#### ARTICLE IV.

The ships mentioned in Articles I, II, and III shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents independently of their nationality.

The governments engage not to use these ships for any military purpose.

These ships must not in any way hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and visit them; they can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall inscribe in the sailing papers of the hospital ships the orders they give them.

#### ARTICLE V.

The military hospital ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles II and III shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

Tous les bâtiments hospitaliers se feront reconnaître en hissant, avec leur pavillon national, le pavillon blanc à croix rouge prévu par la Convention de Genève.

All hospital ships shall make themselves known, by hoisting, together with their national flag, the white flag, with a red cross provided by the Geneva Convention.

## ARTICLE 6.

Les bâtiments de commerce, yachts ou embarcations neutres, portant ou recueillant des blessés, des malades ou des naufragés des belligérants, ne peuvent être capturés pour le fait de ce transport, mais ils restent exposés à la capture pour les violations de neutralité qu'ils pourraient avoir commises.

## ARTICLE VI.

Neutral merchantmen, yachts, or vessels, having, or taking on board, sick, wounded, or shipwrecked of the belligerents, can not be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.

## ARTICLE 7.

Le personnel religieux, médical et hospitalier de tout bâtiment capturé est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer lorsque le commandant en chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains la jouissance intégrale de son traitement.

## ARTICLE VII.

The religious, medical, or hospital staff of any captured ship is inviolable, and its members can not be made prisoners of war. On leaving the ship they take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterward leave when the Commander in Chief considers it possible.

The belligerents must guarantee to the staff that has fallen into their hands the enjoyment of their salaries intact.

## ARTICLE 8.

Les marins et les militaires embarqués blessés ou malades, à quelque nation qu'ils appartiennent, seront protégés et soignés par les capteurs.

## ARTICLE VIII.

Sailors and soldiers who are taken on board when sick or wounded, to whatever nation they belong, shall be protected and looked after by the captors.

## ARTICLE 9.

Sont prisonniers de guerre les naufragés, blessés ou malades, d'un belligérant qui tombent au pouvoir de l'autre. Il appartient à celui-ci de décider, suivant les circonstances, s'il convient de les garder, de les diriger sur un port de sa nation, sur un port neutre ou même sur un port de l'adversaire. Dans ce dernier cas, les prisonniers ainsi rendus à leur pays ne pourront servir pendant la durée de guerre.

## ARTICLE IX.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the hands of the other, are prisoners of war. The captor must decide, according to circumstances, if it is best to keep them or send them to a port of his own country, to a neutral port, or even to a hostile port. In the last case, prisoners thus repatriated can not serve as long as the war lasts.

## ARTICLE 10.

(Exclu.)

## ARTICLE X.

(Excluded.)

## ARTICLE 11.

Les règles contenues dans les articles ci-dessus ne sont obligatoires que pour les Puissances contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Les dites règles cesseront d'être obligatoires du moment où, dans une guerre entre des Puissances contractantes, une Puissance non contractante se joindrait à l'un des belligérants.

## ARTICLE XI.

The rules contained in the above Articles are binding only on the Contracting Powers, in case of War between two or more of them.

The said rules shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

## ARTICLE 12.

La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à la Haye.

Il sera dressé du dépôt de chaque ratification un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances contractantes.

## ARTICLE 13.

Les Puissances non signataires, qui auront accepté la Convention de Genève du 22 août 1864, sont admises à adhérer à la présente Convention.

Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances contractantes.

## ARTICLE 14.

S'il arrivait qu'une des Hautes Parties contractantes dénonçât la présente Convention, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.

En foi de quoi, les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à la Haye, le vingt-neuf juillet mil huit cent quatre-vingt dix-neuf, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

Pour l'Allemagne:

(L. s.) MUNSTER DERNEBURG.  
(Sous réserve de l'article X.)

Pour l'Autriche-Hongrie:

(L. s.) WELSERNSHEIMB.  
(L. s.) OKOLICSANYI.

Pour la Belgique:

(L. s.) A. BEERNAERT.  
(L. s.) CTE. DE GRELLE ROGIER.  
(L. s.) CHR. DESCAMPS.

Pour la Chine:

(L. s.) YANG YU.

Pour la Danemark:

(L. s.) F. BILLE.

## ARTICLE XII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

On the receipt of each ratification a *procès-verbal* shall be drawn up, a copy of which, duly certified, shall be sent through the diplomatic channel to all the Contracting Powers.

## ARTICLE XIII.

The non-Signatory Powers who accepted the Geneva Convention of the 22nd August, 1864, are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherlands Government, and by it communicated to all the other Contracting Powers.

## ARTICLE XIV.

In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation shall not take effect until a year after the notification made in writing to the Netherlands Government, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In testimony whereof the respective Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at The Hague the 29th July, 1899, in single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which duly certified, shall be sent through the diplomatic channel to the Contracting Powers.

For Germany:

(Signed)  
(L. s.) MUNSTER DERNEBURG.  
(Under reserve of Article X.)

For Austria-Hungary:

(Signed)  
(L. s.) WELSERNSHEIMB.  
(L. s.) OKOLICSANYI.

For Belgium:

(Signed)  
(L. s.) A. BEERNAERT.  
(L. s.) CTE. DE GRELLE ROGIER.  
(L. s.) CHR. DESCAMPS.

For China:

(Signed)  
(L. s.) YANG YU.

For Denmark:

(Signed)  
(L. s.) F. BILLE.

**Pour l'Espagne:**

(L. s.) EL DUQUE DE TETUAN.  
 (L. s.) W. R. DE VILLA URRUTIA.  
 (L. s.) ARTURO DE BAKER.

**Pour les Etats-Unis d'Amérique:**

(L. s.) STANFORD NEWEL.  
 (Sous réserve de l'article X.)

**Pour les Etats-Unis Mexicains:**

(L. s.) A. DE MIER.  
 (L. s.) J. ZENIL.

**Pour la France:**

(L. s.) LEON BOURGEOIS.  
 (L. s.) G. BIHOUD.  
 (L. s.) D'ESTOURNELLES DE CONSTANT.

**Pour la Grande Bretagne et l'Irlande:**

(L. s.) HENRY HOWARD.  
 (Sous réserve de l'article X.)

**Pour la Grèce:**

(L. s.) N. DELYANNI.

**Pour l'Italie:**

(L. s.) NIGRA.  
 (L. s.) A. ZANNINI.  
 (L. s.) G. POMFILJ.

**Pour le Japon:**

(L. s.) I. MOTONO.

**Pour le Luxembourg:**

(L. s.) EYSCHEN.

**Pour le Monténégro:**

(L. s.) STAAL.

**Pour les Pays-Bas:**

(L. s.) V. KARNEBEEK.  
 (L. s.) DEN BEER POORTUGAEL.  
 (L. s.) T. M. C. ASSER.  
 (L. s.) E. N. RAHUSEN.

**Pour la Perse:**

(L. s.) MIRZA RIZA KHAN, Arfa-ud-Dovleh.

**Pour le Portugal:**

(L. s.) CONDE DE MACEDO.  
 (L. s.) AGOSTINHO D'ORNELLAS DE VASCONCELLOS.  
 (L. s.) CONDE DE SELIR.

**Pour la Roumanie:**

(L. s.) A. BELDIMAN.  
 (L. s.) J. N. PAPINIU.

**For Spain:**

(Signed)  
 (L. s.) EL DUQUE DE TUTUAN.  
 (L. s.) W. R. DE VILLA URRUTIA.  
 (L. s.) ARTURO DE BAKER.

**For the United States of America:**

(Signed)  
 (L. s.) STANFORD NEWEL.  
 (Under reserve of Article X.)

**For the United Mexican States:**

(Signed)  
 (L. s.) A. DE MIER.  
 (L. s.) J. ZENIL.

**For France:**

(Signed)  
 (L. s.) LEON BOURGEOIS.  
 (L. s.) G. BIHOUD.  
 (L. s.) D'ESTOURNELLES DE CONSTANT.

**For Great Britain and Ireland:**

(Signed)  
 (L. s.) HENRY HOWARD.  
 (Under reserve of Article X.)

**For Greece:**

(Signed)  
 (L. s.) N. DELYANNI.

**For Italy:**

(Signed)  
 (L. s.) NIGRA.  
 (L. s.) A. ZANNINI.  
 (L. s.) G. POMFILJ.

**For Japan:**

(Signed)  
 (L. s.) I. MOTONO.

**For Luxemburg:**

(Signed)  
 (L. s.) EYSCHEN.

**For Montenegro:**

(Signed)  
 (L. s.) STAAL.

**For the Netherlands:**

(Signed)  
 (L. s.) V. KARNEBEEK.  
 (L. s.) DEN BEER POORTUGAEL.  
 (L. s.) T. M. C. ASSER.  
 (L. s.) E. N. RAHUSEN.

**For Persia:**

(Signed)  
 (L. s.) MIRZA RIZA KHAN, Arfa-ud-Dovleh.

**For Portugal:**

(Signed)  
 (L. s.) CONDE DE MACEDO.  
 (L. s.) AGOSTINHO D'ORNELLAS DE VASCONCELLOS.  
 (L. s.) CONDE DE SELIR.

**For Roumania:**

(Signed)  
 (L. s.) A. BELDIMAN.  
 (L. s.) J. N. PAPINIU.

## Pour la Russie:

(L. s.) STAAL.  
(L. s.) MARTENS.  
(L. s.) A. BASILY.

## Pour la Serbie:

(L. s.) CHEDO MIYATOVITCH.

## Pour la Siam:

(L. s.) PHYA SURIYA NUVATR.  
(L. s.) VISUDDHA.

## Pour les Royaumes Unis de Suède et de Norvège:

(L. s.) BILDT.

## Pour la Suisse:

(L. s.) ROTH.

## Pour la Turquie:

(L. s.) TURKHAN.  
(L. s.) MEHEMED NOURY.  
(Sous réserve de l'article X.)

## Pour la Bulgarie:

(L. s.) D. STANCIOFF.  
(L. s.) MAJOR HESSAPCHIEFF.  
Certifié pour copie conforme, Le Secrétaire  
Général du Département des Affaires Étran-  
gères, L. H. RUYSSENAERS.  
LA HAYE, le 31 janvier 1900.

## For Russia:

(Signed) (L. s.) STAAL.  
(L. s.) MARTENS.  
(L. s.) A. BASILY.

## For Servia:

(Signed) (L. s.) CHEDO MIYATOVITCH.

## For Siam:

(Signed) (L. s.) PHYA SURIYA NUVATR.  
(L. s.) VISUDDHA.

## For the United Kingdoms of Sweden and Norway:

(Signed) (L. s.) BILDT.

## For Switzerland:

(Signed) (L. s.) ROTH.

## For Turkey:

(Signed) (L. s.) TURKHAN.  
(L. s.) MEHEMED NOURY.  
(Under reserve of Article X.)

## For Bulgaria:

(Signed) (L. s.) D. STANCIOFF.  
(L. s.) MAJOR HESSAPCHIEFF.  
Certified as a true copy, The Secretary Gen-  
eral of the Department of Foreign Affairs.  
L. H. RUYSSENAERS.  
THE HAGUE, January 31, 1900.

And whereas, on an understanding reached by the Government of the Netherlands with the signatory powers it was agreed to exclude from the ratifications of said Convention its Article X;

And whereas, the said Convention, with its Article X excluded, was ratified by the Government of the United States, by and with the advice and consent of the Senate thereof, and by the Governments of the other Powers aforesaid, with the exception of those of China and Turkey;

And whereas, in pursuance of the stipulations of Article XII of the said Convention the ratifications of the said Convention were deposited at The Hague on the 4th day of September, 1900, by the Plenipotentiaries of the Governments of the United States of America, Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, and Bulgaria; on the 6th day of October, 1900, by the Plenipotentiary of the Government of Japan; on the 16th day of October, 1900, by the Plenipotentiary of the Government of Montenegro; on the 29th day of December, 1900, by the Plenipotentiary of the Government of Switzerland; on the 4th day of April, 1901, by the Plenipotentiary of the Government of Greece; on the 17th day of April, 1901, by the Plenipotentiary of the Government of Mexico; on the 11th day of May, 1901, by the Plenipotentiary of the Government of Servia, and on the 12th day of July, 1901, by the Plenipotentiary of the Government of Luxembourg:

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention, with its Article X excluded, to be made public, to the end that the same and every clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this first day of November, in the year of our Lord [L. s.] one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty-sixth.

By the President:

JOHN HAY,

Secretary of State.

THEODORE ROOSEVELT.













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